

CITY OF BIG RAPIDS, MICHIGAN

CODE OF ORDINANCES

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ORDINANCE NO. 730-11-18

Commissioner Anderson moved, supported by Commissioner Eppley, the adoption of the following ordinance.

**ORDINANCE APPROVING AND ADOPTING THE
2018 CODIFICATION OF THE BIG RAPIDS CITY CODE OF ORDINANCES**

WHEREAS, the Big Rapids City Charter requires the City Commission to provide for the compilation or codification and publication of the Charter and all City ordinances then in force at least once every five years, (Charter §7.2), and

WHEREAS, the codification of current City ordinances is helpful to the public and City staff in providing a single publication in which all City ordinances can be arranged, indexed, and made available to all interested persons, and

WHEREAS, the City Commission has authorized and approved the budgetary expenditure necessary for the codification process, and

WHEREAS, the City Clerk has worked with the codifier in assembling, reviewing, and proofreading all of the City's ordinances currently in force, and

WHEREAS, the City Attorney has reviewed and approved the proposed codification,

NOW, THEREFORE, The City of Big Rapids ordains:

Section 1. The 2018 codification prepared by American Legal Publishing Corporation is approved and adopted as the codification of the Big Rapids City Charter and Big Rapids City Code of Ordinances.

Section 2. Copies of the codification shall be kept in the City Clerk's office and made available to the general public for review, inspection, and obtaining copies of the City Charter and Code of Ordinances.

Section 3. The City Clerk is directed to publish this ordinance in the Pioneer.

Section 4. The ordinance shall become effective upon publication.

Yeas: Anderson, Cochran, Eppley, Hogenson, James

Nays: None

The Mayor declared the ordinance adopted.

Dated: December 3, 2018

Published: December 7, 2018

CHARTER OF THE CITY OF BIG RAPIDS, MICHIGAN

CITY OF BIG RAPIDS

CHARTER

**Effective
October 9, 2012**

**Adopted by the vote of the Big Rapids residents at the
August 7, 2012 Primary Election**

**Section 8.10 revision adopted by the vote of the Big Rapids residents at the
November 7, 2017 City General Election**

**Section 3.4 Compensation of City Commissioners and Mayor revised by the Compensation
Commission – approved by City Commission per res. 19-87, dated June 17, 2019**

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CHARTER

Editor's note: The foregoing Charter of the City was adopted by members of the Charter Revision Committee on May 22, 2012. It was adopted by the electorate on August 7, 2012 and went into effect on October 9, 2012.

A revision of Section 8.10 (Purchasing Procedure) was voted on by the people on November 7, 2017.

PREAMBLE

We, the people of the City of Big Rapids, Mecosta County, Michigan, by authority of the Constitution of Michigan and Act 279 of 1909 [MCL 117.1 et seq.] hereby ordain and establish this home rule charter for the City of Big Rapids.

CHAPTER I. CONTINUATION OF EXISTING CORPORATION BOUNDARIES

Section 1.1 Continuation of Existing Corporation.

The municipal corporation known as the City of Big Rapids, in the County of Mecosta and State of Michigan, formally incorporated by the Michigan Legislature in 1869 LA 459, shall continue as a body politic and corporate under the same name as its limits now are or hereafter may be established.

The Big Rapids Charter Revision Commission consisting of Edward Burch, Pamela Fleming, Richard Hansen, Robert Hendrickson, Thomas J. Hogenson, Robert Krueger, Luanne Rothstein, Mary Ryan and Alma M. Wortley proposed a revised City Charter in 2012.

Section 1.2 Alteration of Boundaries.

Territory may be attached to or detached from the City in the manner provided by State law.

CHAPTER II. GENERAL MUNICIPAL POWERS

Section 2.1 General Municipal Powers.

The City of Big Rapids and its officers, unless otherwise provided or limited by this Charter, shall be vested with any and all powers, privileges, and immunities, expressed and implied, that the Constitution and laws of the State of Michigan

including Public Act 279 of 1909 [MCL 117.1 et seq.] now or in the future, may provide. No enumeration of particular powers, privileges, or immunities in this Charter shall be held to be exclusive.

Section 2.2 Additional Powers of the City.

The City and its officers shall have power to exercise all municipal powers in managing and controlling municipal property and in administering the municipal government, whether such powers are expressly enumerated or not; to do any act to advance the interests of the City, the good government, and prosperity of the municipality and its residents, and through its regularly constituted authority, to pass and enforce all laws, ordinances and resolutions relating to its municipal concerns, subject to the constitution and general laws of the State and the provisions of this Charter.

Section 2.3 Exercise of Power.

When no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the City and its officers, the City may employ any procedure permitted by any statute of the State of Michigan. If alternate procedures are provided by different statutes, the City Commission shall select the procedure it considers to be most expeditious and advantageous to the City and its residents. Where no procedure for the exercise of any power of the City is set forth, either in this Charter or in any statute of the State of Michigan, the City Commission may prescribe by ordinance a procedure for the exercise thereof.

Section 2.4 Succession to Properties of Present City.

The City shall succeed to own, possess and control all the records and documents, all other property, whether located inside or outside the boundaries of the City, and all privileges, grants, franchises, powers and immunities possessed by the existing City of Big Rapids.

Section 2.5 Liability and Obligations of Present City.

The City shall be subject to and liable for all debts, liabilities and obligations of the present City in existence, and those which may be incurred in the future. The City shall make suitable provisions for the liquidation and payment of these debts, liabilities, and obligations.

Section 2.6 Code of Ethics.

Within two years after the effective date of this charter, the City Commission shall adopt an ethics policy ordinance by which all persons in the municipal service, whether compensated or voluntary, shall abide. It shall encourage such persons to place the public interests above self interest.

CHAPTER III. PLAN OF GOVERNMENT

Section 3.1 Commission-Manager Government.

This Charter establishes a commission-manager form of government.

Section 3.2 The City Commission.

The electors of the City shall elect a City Commission consisting of a Mayor and four City Commissioners. The City Commission shall be the legislative and governing body of the City. Except as is otherwise provided in this Charter, the City Commission shall have the power and authority to exercise all powers conferred upon or possessed by the City, and the power and authority to adopt laws, ordinances and resolutions as it considers proper. Wherever the word "City Commission" is used in this Charter, it shall be synonymous with any other term used in any state or federal law in referring to municipal legislative or governing bodies.

Section 3.3 Establishing City Boards.

The City Commission can establish and dissolve such boards as the City Commission considers necessary for the best interest of the City. The City Commission shall define the duties of such boards and take such other action relating to them as is required in this Charter.

a. All City boards shall adopt rules of procedure and keep a record of all meetings.

b. All City boards shall elect officers as their rules of procedures shall require.

c. The terms of members appointed to such boards shall not exceed three years except as otherwise provided by this Charter or State law.

d. No person shall serve more than three (3) consecutive full terms. However, any person appointed to fill a vacancy when not more than one-half the unexpired term remains may be appointed subsequently to three (3) consecutive full terms.

e. No person shall be a member of more than one City board at any one time without specific permission of the City Commission.

f. To qualify for appointment to a City board or commission, a person shall be a registered elector in the City and a resident of the City for at least one year prior to the day of his or her appointment. Members of City boards or commissions shall remain registered electors and residents of the City during their tenure in office. These qualifications do not apply to City boards or commissions where different membership qualifications are prescribed by State law.

g. Whenever a position on a board becomes vacant, the Mayor and City Commission shall proceed to fill the position in accordance with section 3.5 (e) of this Charter.

h. The Clerk shall publicize all vacancies and solicit applicants through available media prior to a person being nominated to fill such vacancy.

Section 3.4 Compensation of City Commissioners and Mayor.

Compensation Commission

A Compensation Commission shall be created and members appointed by the Mayor and approved by the City Commission, which shall be consistent with the requirements of MCL 117.5c. Unless otherwise specifically provided for in this Charter, the duties of the Compensation Commission shall be the review and determination of the salary, which may be paid to the Mayor, and City Commissioners for services rendered.

The Compensation Commission shall meet in odd number years and make its recommendation to the City Commission at least 60 days prior to the next City general election. Approval or rejection of the Compensation Commission's recommendation shall be in accordance with the Home Rule City Act.

The compensation of the City Commissioners and the Mayor shall be \$3,700 and \$4,250 per year respectively until modified by recommendation of the Compensation Commission and approved by the City Commission. Such amounts shall be payable in twelve equal monthly installments. The Compensation Commission may provide for further payment to members of the City Commission as reimbursement for reasonable and necessary expenses incurred while conducting the business of the City.

Section 3.5 Responsibilities and Duties of the Mayor.

The responsibilities and duties of the Mayor are to:

(a) Serve as the legal and ceremonial executive head of the City. The Mayor, by right, shall be permitted to speak on and vote on all proceedings of the City Commission, but shall have no veto power. The Mayor shall be the presiding officer of the City Commission.

(b) Authenticate by signing such instruments as the City Commission, this Charter, or the laws of the State and the United States require.

(c) Exercise only such powers as State law, this Charter, or the City Commission shall specifically confer upon or require of the office.

(d) Be a non-voting ex-officio member of such other boards as the City Commission requires or permits.

(e) Nominate the members of all boards and commissions of the City as authorized by the Charter (Section 3.3), City ordinance, or laws of this State. The Mayor shall make such nominations in not more than 45 days after the date a vacancy first occurs. Any such nomination shall become effective only upon approval of the City Commission. From the time the City Commission receives official notification of the nomination, it shall have 15 days either to approve or reject the nomination. If the City Commission does not approve or reject the nomination during this period, the nominee shall be considered as having been approved.

(f) Present a State of the City report coinciding with the start of each fiscal year, advising the general public of significant issues facing the City of Big Rapids, and goals that might be achieved in the next year.

Section 3.6 Mayor Pro-Tempore.

The City Commission shall designate one of its members as Mayor Pro-Tempore to perform the duties of the Mayor when the Mayor is temporarily unable to perform the duties of the office. Whenever three City Commissioners are present at a meeting of the City Commission, and both the Mayor and Mayor Pro-Tempore are absent, the three City Commissioners present shall elect one of them to act as Acting Mayor Pro-Tempore. The City Commission, so constituted, shall be empowered to conduct the regular business of the City Commission.

Section 3.7 City Officers.

(a) The City Commission shall appoint as officers of the City the City Manager, City Clerk, City Treasurer, City Assessor and City Attorney.

(b) All persons employed in positions not listed in Subsection (a) shall be considered "employees".

Section 3.8 City Manager; Appointment.

The City Commission shall select and appoint, on the basis of executive and administrative qualifications with special reference to training and experience, a person to the position of City Manager and shall determine the compensation for this officer. The City Manager shall serve at the pleasure of the City Commission and shall be the chief administrative officer of the City.

Section 3.9 Responsibilities and Duties of the City Manager.

The responsibilities and duties of the City Manager shall be to:

(a) Supervise the enforcement of all laws and ordinances.

(b) Appoint and remove the heads of the several City departments whose appointments are not otherwise specified in this Charter, but only with the consent of the City Commission.

(c) Manage and supervise all public improvements, works and undertakings of the City; have charge of the construction, repair, maintenance and cleaning of streets, sidewalks, bridges, pavements, sewers and all public buildings or other property belonging to the City, except as otherwise provided in this Charter.

(d) Assure that all terms and conditions imposed in favor of the City or its residents in any public utility franchise, or in any contract, are faithfully kept and performed.

(e) Present and recommend an annual budget to the City Commission, administer the adopted budget under policies formulated by the City Commission and keep the City Commission fully informed of the financial condition and needs of the City.

(f) Recommend to the City Commission the adoption of such measures as are necessary or expedient.

(g) Exercise the duties and responsibilities of personnel director of all City employees, except as otherwise provided in this Charter, or delegate such duties to another officer or employee of the City. Such delegation shall not relieve the City Manager of any responsibility for the proper conduct of such duties. As personnel director, the City Manager, in consultation with the appropriate department head, shall hire all employees of the City except those for which this Charter provides a different manner of appointment.

(h) Exercise and perform all administrative functions of the City that are not imposed upon another official by this Charter or any City ordinance.

(i) Perform such other duties as are prescribed by this Charter or as may be required by ordinance or by direction of the City Commission.

(j) Attend all meetings of the City Commission.

Section 3.10 Acting City Manager.

(a) The City Commission shall appoint an Acting City Manager during any vacancy in the office of the City Manager.

(b) The City Manager may designate a City officer or employee as Acting City Manager during his or her absence from the City. The Acting City Manager shall have all the responsibilities, duties, and authority of the City Manager.

Section 3.11 Relationship of City Commission to Administrative Service.

The City Manager shall be responsible to the City Commission for the administration of all departments of the City government reporting to the City Manager. Except for the purpose of inquiry, the

City Commission and its members shall deal with the administrative service solely through the City Manager, and neither the City Commission nor any of its members shall give orders to any of the subordinates of the City Manager.

Section 3.12 City Clerk; Appointment.

The City Commission shall select and appoint a person to serve as the City Clerk at the compensation determined by the City Commission. The City Clerk shall serve at the pleasure of the City Commission.

Section 3.13 City Clerk; Responsibilities and Duties.

The responsibilities and duties of the City Clerk shall be to:

(a) Serve as the Clerk of the City Commission, attend all meetings of the City Commission and maintain a permanent journal of its proceedings. The City Clerk shall retain on file at least one copy of all ordinances, resolutions and regulations of the City Commission.

(b) Maintain custody of the City seal and affix it to all documents and instruments requiring the seal, and attest the same. The City Clerk shall maintain custody of all papers, documents, and records pertaining to the City that are not properly retained in other departments. The City Clerk shall give to the proper departments or officials ample notice of the expiration or termination of all franchises, contracts or agreements.

(c) Certify by signing all ordinances and resolutions enacted or passed by the City Commission and perform all other duties required of the office by State law, this Charter or by the City Commission.

Section 3.14 City Treasurer; Appointment.

The City Commission shall select and appoint a person to serve as the City Treasurer at the compensation determined by the City Commission. The City Treasurer shall serve at the pleasure of the City Commission.

Section 3.15 City Treasurer; Responsibilities and Duties.

The responsibilities and duties of the City Treasurer shall be to:

- (a) Report to the City Manager on a regular basis.
- (b) Prepare the annual budget of the City for consideration and adoption by the City Commission.
- (c) Maintain custody of all money, bonds, investments, securities, accounting for City property, and instruments of value belonging to or held in trust by the City.
- (d) Receive all money belonging to and receivable by the City, issue receipts for all payments, and maintain an accurate record of such receipts.
- (e) Deposit all moneys or funds in such manner and only in such places as the City Commission determines.
- (f) Collect State, County, school district, City and other taxes and payments as State law, this Charter or the City Commission confers on the office.
- (g) Maintain a system of accounts, which complies with the uniform chart of accounts required by State law and the City Commission. All accounts of the City shall be balanced at the end of each month and a report made by the City Treasurer to the City Commission and the City Manager. At its discretion, the City Commission may assign the responsibility of maintaining the accounts of the City to an officer or department other than the City Treasurer.
- (h) Perform other duties prescribed by this Charter, the City Commission, or the City Manager.

Section 3.16 City Attorney; Appointment.

- (a) The City Commission shall select and appoint a person to serve as the City Attorney at the compensation determined by the City Commission. The City Attorney shall serve at the pleasure of the City Commission.
- (b) The City Commission may retain special legal counsel to handle any matter to which the City is a party, in which the City has an interest, or to assist and counsel with the City Attorney.
- (c) The City Commission shall determine the compensation to be paid to the City Attorney for routine and normal duties of that office. The City Commission may provide special compensation for services provided in support of cases in the courts or before quasi-judicial or administrative tribunals, the issuance of bonds of the City, condemnation proceedings, and other assignments authorized by the City Commission. The City Commission shall

award special compensation only according to an agreement with the City Attorney made prior to the rendering of legal service for which special compensation is paid.

Section 3.17 Responsibilities and Duties of The City Attorney.

The responsibilities and duties of the City Attorney shall be to:

- (a) Counsel and represent the City Commission and all its members in legal matters relating to their official duties; provide written opinions to any official or department of the City when requested by the City Commission or City Manager; and file a copy of such opinions with the City Clerk.
- (b) Conduct for the City all cases in which the City is a party before all courts and other legally constituted tribunals.
- (c) Prepare, or officially review, all contracts, bonds, and other written instruments in which the City is concerned, and certify before execution as to their legality and correctness of form.
- (d) File in the office of the City Clerk, the original copy of all franchises granted by the City, all agreements and contracts entered into by or on behalf of the City, and all papers constituting a part of the proceedings in all courts or legally constituted tribunals to which the City is a party, together with the pertinent data and information concerning the same.

(e) Call to the attention of the City Commission and the City Manager all matters of law and changes or developments in the law that affect the City.

(f) Perform such other duties as are prescribed by this Charter or the City Commission.

Section 3.18 City Assessor; Appointment.

The City Commission shall select and appoint a City Assessor at the compensation determined by the City Commission. The Assessor shall serve at the pleasure of the City Commission.

Section 3.19 City Assessor; Responsibilities and Duties.

The Assessor shall possess all the powers vested in and all the duties imposed upon assessing officers by the laws of the State. The Assessor shall make and prepare all regular and special assessment rolls in the manner prescribed by the laws of the State

and perform such other duties as are prescribed for the Assessor by the City Commission or the City Manager.

Section 3.20 Official Performance.

Whenever a City officer is required to perform a specific act, a deputy or another subordinate may perform that act at the official's direction, unless otherwise prohibited or required by law.

Section 3.21 Other Administrative Officers; Appointment.

The City Commission may designate and appoint additional persons as administrative officers.

Section 3.22 Responsibilities and Duties

The responsibilities and duties of each City department and the officers and employees of each department shall be established by this Charter, laws of the State, and ordinances of the City. The City Manager may prescribe for departments, officers and employees the duties and responsibilities consistent with this Charter, City ordinances and State laws.

CHAPTER IV. GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL OF THE CITY

Section 4.1 Qualifications of Mayor and City Commissioners.

(a) The Mayor and City Commissioners shall be registered electors in the City and residents of the City for at least one year immediately prior to the last day for filing petitions for such office or prior to the time of his or her appointment to fill a vacancy. Members of the City Commission shall remain residents of the City during their entire term of office. The City Commission shall be the sole judge of the

election and qualifications of its members, subject only to review by the court.

(b) No person shall be eligible for any elective or appointive City office who is in default to the City. Any person who is in such default shall automatically be removed from office unless the default is eliminated within 30 days after written notification by the City Commission, unless the person, in good faith, is contesting the liability for the default.

(c) Any person who has been elected or appointed to the City Commission shall not be eligible

for appointment to any office or employed by the City until one year has elapsed following the expiration of the term for which the person was elected or appointed.

Section 4.2 Vacancies in Office.

If any one or more of the following events occurs before the term of any elected official expires, the City office is declared vacant:

(a) A State law creating a vacancy takes effect with respect to the elected official of the City.

(b) The elected official of the City is continuously absent from the City for more than 30 days without the authorization of the City Commission.

(c) The elected official of the City is convicted of any act constituting misconduct in office under the provision of this Charter, a City ordinance or State law.

(d) The Mayor or other member of the City Commission misses four consecutive regular meetings of the City Commission or 25 percent of the meetings in any fiscal year of the City, unless such absence is excused by the City Commission and the reason for the absence is entered in the proceedings of the City Commission.

(e) The elected official refuses to take the Oath of Office.

(f) The elected official is recalled from office in an election.

(g) The elected official files and does not withdraw a written statement of resignation with the City Clerk before the City Commission accepts the resignation.

Section 4.3 Resignation of Elected Officials

In all cases, the City Commission shall vote on the question of accepting a written statement of resignation filed with the City Clerk at its next regular meeting.

Section 4.4 Filling Vacancies in Elective Offices.

If a vacancy occurs in any elective office, except by reason of recall, the City Commission, within 45 days after the vacancy occurs, shall appoint a qualified person to the vacant position to serve until a

successor is elected at the next general municipal election. If three or more vacancies in the position of City Commission exist simultaneously, the City Clerk shall call a special election as soon as is legally possible for the purpose of filling the vacancies. The remaining City Commissioner(s) shall have the authority to take whatever legal actions are necessary to provide for the special election and to appoint the number of Commission members required to constitute a quorum, who shall hold office only until the member's successor is elected and qualified.

Section 4.5 Change in Term of Office.

The City Commission shall not shorten or lengthen the term of any elected official, except that elected officials of the City shall continue to hold office until their successors are elected and have qualified.

Section 4.6 Oath of Office and Bonds.

Every City Officer and elected City Officials shall take the Oath of Office prescribed by the Constitution of the State and shall file the same with the City Clerk, together with any bond this Charter or the City Commission may require. Officers and elected City Officials who refuse to comply with the provisions of this section within ten days after the beginning of a term of office or date of appointment shall be considered to have declined the office. The office shall then become vacant unless the City Commission extends the time in which the individual may qualify as required in this section.

Section 4.7 Surety Bonds.

The City Commission may determine that a City officer or employee shall be covered by a surety bond or a fidelity bond, and the dollar amount of the coverage. The City shall pay for the bond. All bonds for City officers or employees shall be filed with the City Clerk.

Section 4.8 Financial Interests Prohibited.

No City officer shall have any financial interest, directly or indirectly, (other than the common public interest) in the profits of any contract, job, work or service to be performed for the City. This prohibition may be waived upon public declaration of such conflict of interest and the waiver approved by a four-fifths vote of the City Commission or by unanimous

vote of the remaining City Commissioners if the conflict involves a City Commissioner. No officer of the City shall personally, or as an agent, provide any bond, which is subject to approval by the City Commission. Any officer of the City who violates the provisions of this Section shall be guilty of misconduct in office. This section shall be applicable to the extent permitted by MCL 15.328, which regulates certain City contracts involving City officials and City employees.

Section 4.9 Appointments, Removals, and Promotions.

Appointments, removals, and promotions of officers and employees of the City shall be based upon their qualifications and performance of duties.

Section 4.10 Employee Benefit Programs.

The City Commission may make available to the officers and employees of the City a plan of group life, health care and accident insurance. The City Commission may provide a retirement system for employees of the City.

CHAPTER V. ELECTIONS

Section 5.1 Qualifications of Electors.

All residents of the City having the qualifications of an elector in the State of Michigan, or who will have such qualifications at the time of the next regular or special election, shall be entitled to register as an elector of the City.

Section 5.2 Election Procedure.

The election of City Commissioners and the Mayor shall be conducted on a nonpartisan basis. The general election statutes of the State shall apply to and control all procedures relating to voter registration and City elections, except as such statutes relate to political parties and partisan procedure and except as otherwise provided in this Charter.

The City Clerk shall notify the public of the time and place of holding any City election, the officers to be elected, and the questions to be voted upon. The City Clerk shall comply with the requirements of State election laws as they relate to giving public notice of elections.

The polls of all elections shall be opened and closed at the time prescribed by State law.

Section 5.3 Wards and Precincts

The City of Big Rapids shall consist of one ward. The City Commission may from time to time establish by ordinance election boundaries according to State law.

Section 5.4 Election Date.

A municipal election shall be held in the City on the Tuesday after the first Monday in November 2013 and every odd numbered year thereafter. This shall be known as the General Municipal Election. All other municipal elections shall be known as Special Municipal Elections.

Section 5.5 Terms of Office of Elected Officials.

(a) There shall be a general municipal election in odd years at which the voters shall elect at large two persons to the office of City Commissioner to serve four-year terms. At alternating general municipal elections held every four years, the voters shall elect at large a Mayor to serve a four-year term. The terms of office shall commence on the first City Commission meeting following the election, provided, however, the current office holders will serve out their full term.

(b) In the event an election to fill the remaining portion of an unexpired term in the office of City Commissioner is conducted, the candidate receiving

the highest number of votes for the vacant term shall be elected. If more than one City Commissioner is to be elected to fill the remainder of unexpired terms, the candidate for the unexpired term receiving the next highest number of votes shall also be elected. Persons elected to serve remaining portions of terms shall take the oath of office on the first City Commission meeting following the election.

(c) No person shall serve as a member of the City Commission more than twelve consecutive years. One year out of office shall qualify a person to serve as a member of the City Commission. An incumbent Mayor or other member of the City Commission shall not qualify to become a candidate for any elected office who, if elected, could not serve the full term without violating the tenure provision of this Subsection.

Section 5.6 Special Elections.

Special municipal elections shall be held when called by resolution of the City Commission, or when required by this Charter or the laws of the State. Any resolution calling a special election shall state the purpose of such election and no special election shall be held within sixty (60) days of the date of the adoption of the resolution. All provisions contained herein for holding regular elections shall apply to special elections. No franchise, grant or license shall be submitted to the electors at a special election, unless the expense of holding that election, as determined by the City Commission, is paid to the City Treasurer in advance by the petitioner for the franchise, grant or license.

Section 5.7 Election Commission.

The City Clerk, Mayor, and City Attorney, together, shall constitute the Election Commission and the City Clerk shall be chairperson. The Election Commission shall appoint the Board of Election Inspectors for each voting precinct and have charge of all activities and duties required by State law, this Charter and any City ordinance relating to the conduct of municipal elections. The compensation of election inspector personnel shall be determined by the City Commission. In any case, where the appropriate election procedure is in doubt, the Election Commission shall prescribe the procedure to be followed. Two members shall constitute a quorum. Members of the Election Commission shall be paid no compensation in addition to their annual salary or contracted compensation.

Section 5.8 Nominating Petitions

(a) The City Clerk shall inform the public by published notice of the latest date and time for filing nominating petitions and of the number of persons to be nominated to each office. This notice shall appear not less than ten (10) days prior to the deadline for filing nominating petitions. Nominating petitions shall be presented and filed pursuant to State Law.

(b) A person seeking to qualify as a candidate for any elective office under this Charter shall file with the City Clerk a properly completed nominating petition secured from the Office of the City Clerk. The form of the nominating petition shall be substantially as that required by State law for nonpartisan petitions. The City Clerk shall maintain a supply of official petition forms and, upon request, furnish a reasonable number of nominating petitions.

(c) A qualifying nominating petition shall include

the signatures of at least 25 but not more than 40 registered electors of the City. Each petition shall contain the name of only one candidate. A person shall not sign more nominating petitions for the same office than there are persons to be elected to the office. If a qualified and registered voter signs nominating petitions for a greater number of candidates for public office than the number of persons to be elected thereto, his signatures, if they bear the same date, shall not be counted upon any petition and if they bear different dates shall be counted in the order of their priority of date for only so many candidates as there are persons to be elected.

(d) Each candidate for elective office shall file with his or her petition an Affidavit of Identity as provided by State law. The affidavit shall include the name, address, number of years the candidate has been a resident of the State, County, and City and any other information the City Clerk requires to satisfy the City Clerk regarding the identity and legal qualifications of the candidate to hold office in the City. Failure to file the affidavit with the nominating petition shall invalidate a candidate's petition.

Section 5.9 Approval of Petitions.

(a) The City Clerk shall accept for filing only such nominating petitions for qualified candidates as are on official forms, which contain the required number of signatures. The City Clerk shall mark the time and date on the petition as it is filed.

(b) Within three business days after receiving any nominating petition, the City Clerk shall determine the sufficiency of the signatures on each petition. If any petition is found not to contain the required number of legal signatures, the City Clerk shall immediately notify the candidate, in writing, of the insufficiency of the petition.

The petition may then be signed by additional electors and, not later than three days after the petition was returned to the petitioner, again filed with the City Clerk. In no case shall an original or amended petition be filed and accepted after the latest date and time for filing petitions. The City Clerk shall examine the amended petition and determine whether the petition can be certified.

(c) If either the original or the amended petition of nomination contains the appropriate number of signatures, the City Clerk shall mark the petition as APPROVED, indicate the date of the approval, and file the petition.

Section 5.10 Public Inspection of Petitions

All nominating petitions shall be open to public inspection in the office of the City Clerk.

Section 5.11 Acceptance/Rejection of Nomination.

(a) Not later than three business days after the deadline for filing nominating petitions, any person whose name has been presented as a candidate shall file with the City Clerk a signed statement accepting or rejecting the nomination. The statement shall be substantially as outlined below. The name of a person rejecting a nomination shall not be printed on the ballot.

The statement shall be substantially in the following form:

STATE OF MICHIGAN)
COUNTY OF MECOSTA) ss
CITY OF BIG RAPIDS)

I, _____, having been nominated for the office of _____ in the City of Big Rapids, hereby accept [] / reject [] the nomination. I have not become, and am not a candidate as the nominee or representative of, or because of any promised support from any political party, or any committee or convention representing or acting for any political party or organization.

Signed:

Date:

Section 5.12 Certification of Petitions

The City Clerk shall prepare and submit to the County Clerk for ballot preparation a certification containing the following: (a) the names qualified to be printed on the election ballot, the offices for which they have filed petitions, and whether the candidates are to be elected to a full term or the remaining portion of an unexpired term and (b) the ballot questions.

Section 5.13 Form of Ballots.

The form, printing and numbering of ballots and ballot labels used in each general municipal election shall conform to the requirements of State law for nonpartisan elections.

Section 5.14 Canvass of Votes.

City elections shall be canvassed according to State law.

Section 5.15 Recount.

Any candidate for City office, or with respect to a proposition, any City elector, may petition the City Clerk for a recount of the votes cast in any City election. The petition for recounting votes and the manner of conducting the recount shall conform to the provision of State law.

Section 5.16 Recall.

An elected official may be recalled from office by the electors of the City in a manner provided by State law. A vacancy created by the recall of any elected official shall be filled according to the provisions of State law.

CHAPTER VI. PROCEDURES FOR THE CITY COMMISSION

Section 6.1 City Commission Meetings.

The City Hall shall be the regular meeting place for the City Commission. However, upon giving public notice of at least 18 hours, it may hold meetings in other locations in the City. The City Commission shall always meet at locations where the public has the opportunity to observe City Commission deliberations. At its first meeting in January, the City Commission shall adopt by resolution a schedule of its regular meeting day and time. At that or the next meeting, the City Commission shall adopt its rules of procedure.

Section 6.2 Special Meetings.

Special meetings of the City Commission may be called by the Mayor, City Manager, or any two City Commissioners, with notice provided as required by State Law. Written notice stating the time, purpose and location of a special meeting shall be delivered personally to each member of the City Commission, or left at the member's usual place of residence, or e-mailed to the member's e-mail address on record with the City Clerk at least three hours prior to the time set for the meeting. If four members are present, the City Commission may conduct at a special meeting held inside the City any business that may come before a regular meeting of the City Commission. The City Commission shall determine in its rules and procedures the manner of proceeding in special meetings. Emergency meetings of the City Commission may be called under the provisions of State Law.

Section 6.3 Special Meetings Outside the City.

The City Commission may hold special meetings in locations outside the City, which shall be limited to subjects or purposes, which require the City Commission to meet outside the City. The business at any special meeting of the City Commission held outside the City shall be limited to hearings and discussions, while all resolutions, ordinances, and decisions of the City Commission must be adopted or made at a meeting held within the City.

Section 6.4 Meetings to be Public.

Business of the City Commission shall be conducted at a public meeting, which shall be open to the public in accordance with the provisions of the State Open Meetings Act. However, the City Commission may meet in sessions closed to the general public for the purposes and in the manner provided by State law. In its rules of procedure, the City Commission shall provide citizens a reasonable opportunity to address the City Commission.

Section 6.5 Quorum.

Three members of the City Commission shall constitute a quorum for transacting the business of the City Commission. If a quorum is not present, two members may adjourn the meeting to a later day and time.

Section 6.6 Voting and Publication of Minutes.

(a) The City Clerk shall call the name of each City Commissioner for his or her vote on all ordinances and resolutions and record each vote in the journal. However, when the Mayor has determined that the vote is unanimous and no City Commissioner objects, the Mayor may direct the City Clerk to record in the journal a unanimous vote. Each City Commissioner shall vote on all questions before the City Commission unless excused by unanimous consent of the members present or as otherwise required not to vote by MCL 15.328.

(b) A City Commissioner shall not vote on any question in which he or she has a financial interest greater than that of the general public or on any question concerning his or her own official conduct.

(c) The official proceedings of the City Commission, or a synopsis showing the substance of each separate proceeding, shall be published in

available media in the City within 15 days after each meeting of the City Commission. If a synopsis is to be published, it shall be prepared by the City Clerk and approved by the Mayor. The official proceedings of the City Commission shall be kept in the English language.

Section 6.7 Compulsory Attendance at Meetings.

By vote of at least two members of the City Commission at one of its regular or special meetings, City officers may be compelled to attend the regular or special meetings of the City Commission. Any City officer who is informed of the vote to require attendance and refuses to attend may be charged with misconduct in office.

Section 6.8 Committees.

The City Commission shall have no standing committees. However, as the City Commission's rules of procedures permit, the Mayor may establish committees of the City Commission for limited periods to carry out specific responsibilities.

Section 6.9 Investigations.

(a) The City Commission, or any person or committee authorized by it for the purpose, shall have power to inquire and investigate into the conduct of any department, office, officer or other matters pertaining to the City. For these purposes, the City Commission or its designee may subpoena witnesses, administer oaths, and compel the presentation of books, papers, and other evidence. Failure on the part of any officer of the City to comply with orders issued under the provisions of this Section shall constitute misconduct in office and is punishable by a civil fine of up to five hundred (\$500) dollars as implemented by ordinance.

(b) The City Commission shall have the power to act as a quasi-judicial agency over matters to be adjudicated as provided and described by ordinance. For these purposes, the City Commission may subpoena witnesses, administer oaths, make findings of fact, rule on the admissibility of evidence presented to it, and compel the presentation of books, papers, records, and other evidence. Failure to comply with a subpoena or order to produce evidence issued by the City Commission shall be punishable by a civil contempt finding and a fine of up to five hundred (\$500) dollars as implemented by ordinance.

CHAPTER VII. CITY LEGISLATION

Section 7.1 Validity of Ordinances.

Unless an ordinance expressly provides differently, any portion of an ordinance or the application thereof to any person or circumstance found to be invalid by a court shall not affect the remaining portions of the ordinance if they can be given effect without the invalid portion or application.

Section 7.2 Compilation, Codification, and Publication of Charter and Ordinances.

Within one year after the adoption of this Charter and at least once in every five years, the City Commission shall provide for the compilation or codification and publication of the Charter and all City ordinances then in force.

Section 7.3 Form of Ordinances.

(a) All legislation of the City shall be by ordinance or by resolution. All laws of the City Commission imposing a penalty for violating the law, shall be by ordinance. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the City Commission shall be "The City of Big Rapids ordains." Ordinances may provide for the punishment of violators, but no punishment shall exceed limits set by State Law.

(b) A resolution, as used in this Charter, shall be an official action of the City Commission and shall be limited to matters pertaining to the internal policy and affairs of the City government or to matters required or permitted to be done by resolution by this Charter or by State or Federal law. The City Commission may adopt a resolution upon the affirmative vote of not less than three of its members. The City Commission may adopt procedural motions upon the affirmative vote of a majority of City Commissioners present.

Section 7.4 Actions Requiring Super Majority.

The City Commission may enact, amend, or repeal ordinances by the affirmative vote of not less than four City Commission members. The City Commission may not

- (a) create or abolish an office,
- (b) impose a tax or assessment,
- (c) close a street, alley or public ground,
- (d) sell or dispose of real estate or any interest therein,
- (e) take private property for public use,
- (f) reconsider or rescind any vote of the City Commission,
- (g) or appropriate any money

except upon the affirmative vote of at least four of its members. When revising or amending an ordinance, the City Commission shall enter the changes in each of the affected sections. The City Commission may repeal an ordinance by reference to the number and title only.

Section 7.5 Effective Date of Ordinances.

Each ordinance shall include an effective date and take effect at that time unless the ordinance imposes a penalty, in which case the effective date of the ordinance shall not be less than 20 days after the date of its publication. No ordinance shall become effective until it is published in accordance with the provisions of this Chapter.

Section 7.6 Publication of Ordinances.

Each ordinance shall be published after its enactment in one of the following two methods:

(1) The full text may be published in a newspaper of general circulation in the City of Big Rapids or by posting to the City's website or by any other means or method determined by the City Commission appropriate to properly inform the general public, or

(2) In cases of ordinances over five hundred words in length, a summary of the ordinance may be published in a newspaper of general circulation in the City of Big Rapids or by posting to the City's website or by any other means or methods determined by the City Commission appropriate to properly inform the general public, including with such publication, a notice that printed copies of the full text of the ordinance are available for inspection and distribution to the public at the Office of the City Clerk.

If method (2) is used, then printed copies shall promptly be so available, as stated in such notice. All ordinances enacted by the City Commission shall be recorded and retained by the City Clerk.

Section 7.7 Public Health, Safety and Environmental Stewardship.

(a) The City Commission shall provide for the public peace, health, and welfare of City residents, for the safety of persons and property. The City Commission may delegate its powers and duties to City officers, departments, and agencies. The City Commission shall oversee the execution of these fundamental purposes of the City.

(b) The City will avail itself of all opportunities to promote positive environmental stewardship and conservation of resources through regulatory and non-regulatory means at its disposal. It will consider the environment of the City to be a public trust resource and encourage its citizens to conserve natural resources. The City will also consider the environment in its purchase of City services, planning activities and daily operations.

Section 7.8 Licenses.

The City Commission, by ordinance, shall prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked. The City may require payment of a reasonable fee for any license. If the pertinent ordinance so requires, the person receiving a license, before receiving the license, shall execute a bond to the City as described by the ordinance.

Section 7.9 Streets and Alleys.

(a) Except as limited by State law and this Charter, the City Commission is authorized to establish, vacate, use, patrol and regulate its streets, alleys, bridges and public places as well as the space above and beneath them whether they are located in or outside the City. Such power shall include, but not be limited to, the proper policing and supervision of public places; licensing, regulating or prohibiting the placement of signs, awnings, awning posts and other things which impede or make dangerous the use of sidewalks or streets; licensing and regulating of construction and use of openings of sidewalks and streets and of all vaults, structures and excavations under the same.

(b) When the City Commission proposes to

vacate, discontinue, or abolish any highway, street, lane, alley or public ground or any part thereof, it shall set a time for a public hearing to hear objections to the proposed action. The City Clerk shall provide public notice of the public hearing in the manner prescribed by ordinance or resolution. The public hearing shall not be held less than 28 days before the date of the proposed action. Written objections to the proposed action may be filed with the City Clerk.

Section 7.10 Initiative and Referendum.

By submitting a petition to the City Clerk, electors of the City may propose an ordinance to the City Commission or call for a referendum on an ordinance enacted by the City Commission. To qualify, a petition:

(a) Must have been approved as to form by the City Attorney prior to being circulated.

(b) Must have been signed by registered electors equal in number to 25 percent of the votes cast for Mayor in the most recent general municipal election.

(c) Must have signatures that were obtained within the 60 days preceding the filing of the petition with the City Clerk.

(d) Shall contain the full text of the proposed ordinance and shall follow the general form of petitions provided by State law and comply with the general standards for petitions established by State law.

(e) Shall be filed with the City Clerk who shall have 15 days to determine the sufficiency of the petitions and to so certify. If the City Clerk finds the petition to be insufficient or improper, the City Clerk shall immediately notify the person who filed the petition. The person shall then have 15 days from such notification to file supplemental petition papers. When the City Clerk determines the petition is sufficient and proper, the City Clerk shall present the petition to the City Commission at its next regular meeting.

Section 7.11 City Commission Procedure on Petitions.

Upon receiving an initiatory or referendary petition the City Commission, within 30 days, shall either:

(a) Adopt the ordinance as submitted by an initiatory petition;

(b) Repeal the ordinance referred to by a referendary petition; or

(c) Determine to submit the proposal provided for in the petition to the electors.

Section 7.12 Submission to Electors.

Should the City Commission decide to submit the proposal to the electors, it shall be submitted at the next election held in the City for any other purpose, or, in the discretion of the City Commission, at a special election. The result shall be determined by a majority vote of the electors voting on the question.

Section 7.13 Ordinance Suspended.

Certification of a referendary petition shall automatically suspend the ordinance in question, pending repeal by the City Commission or determination by the electors. The City Commission may not amend or repeal an ordinance adopted by the electorate through initiatory proceedings for a period of two years after the date of the election at which it was adopted and, then, only by the affirmative vote of four members of the City Commission.

Section 7.14 Conflicting Ordinances.

Should two or more ordinances adopted at the same election have conflicting provisions, the ordinance receiving the highest number of votes shall prevail as to the conflicting provisions.

Section 7.15 Continuation of Existing Ordinances.

All ordinances of the City in effect at the time this Charter becomes effective shall remain in effect.

CHAPTER VIII. GENERAL FINANCE, BUDGET, AUDIT, PURCHASING

Section 8.1 Fiscal Year.

The fiscal year of the City shall begin on the first day of July and end on the thirtieth day of the following June.

Section 8.2 Budget Procedure

By the second Monday in February, each officer and department head shall present to the City Treasurer an estimate of the expenditures during the next fiscal year for the department and programs under her or his control. The Planning Commission shall make recommendations on the capital improvement program which shall be submitted to the City Commission on or before the first Monday in March. Under the direction of the City Manager, the City Treasurer and department heads shall prepare a complete budget plan for the next fiscal year and submit it to the City Manager for presentation to the City Commission on or before the first Monday in May.

Section 8.3 Budget Document.

The budget document shall present a complete financial plan for the ensuing fiscal year. It shall include at least the following information:

(a) Expenditures proposed by the City Manager for each City department and program by operating fund, showing the expenditures for corresponding categories or programs for the current and prior fiscal year, and reasons for any recommended substantial increase or decrease.

(b) Statements of the City's bonded and other indebtedness showing the debt redemption and interest requirements, the debt authorized and unissued, and the balance of all debt reserve funds.

(c) Estimates of all anticipated City revenues by fund from sources other than general taxes and borrowing, and the amounts received by the City from each of the same, or similar sources, during the prior and current fiscal year.

(d) A statement of the estimated fund balance at the end of the current fiscal year and the next fiscal year.

(e) An estimate of the amount to be raised from current and delinquent taxes and borrowing which, together with income from other sources, will be necessary to pay the proposed expenditures.

(f) Such other supporting schedules and information as the City Commission considers necessary or State law requires.

Section 8.4 Budget Hearings.

The City Commission shall conduct a public hearing on the annual budget before its final adoption. The City Clerk shall publish a notice of the public hearing at least one week prior to the hearing. A copy of the proposed budget shall be on file and available to the public for inspection at the office of the City Clerk for at least one week prior to the public hearing.

Section 8.5 Adoption of Budget and Tax Limits.

The City Commission shall adopt a balanced budget for the next fiscal year by the first Monday in June. In its adopting resolution, the City Commission shall determine the amount to be raised by tax upon real and personal property for City purposes. The levy shall not exceed 15 mills of the taxable valuation of all real and personal property subject to taxation in the City. However, the tax rate shall not be increased by more than 2 mills in one year and not more than 5 mills in 3 years. These limits shall not restrict the City Commission's authority to impose additional millage to pay the principal and interest on bonds approved by the electorate.

Section 8.6 Transfer of Appropriation

After the budget has been adopted, all money drawn from the City treasury and obligations to expend money incurred shall be consistent with the amounts appropriated and purposes stated in the budget. The City Commission may transfer any part of an unencumbered appropriation balance from one department account to another. All general fund unobligated appropriations at the end of a fiscal year shall revert to the general fund and may be reappropriated during the next fiscal year.

Section 8.7 Budget Control.

The City Manager shall report to the City Commission at least once each calendar quarter on the fiscal condition of the City. If it appears that expenditures will be greater than the sum of projected revenues and other available funds, the City Manager shall recommend appropriate actions to the City Commission. The City Commission shall reduce appropriations to the extent necessary to prevent any negative fund balance at the end of the fiscal year. The City Commission shall not reduce appropriations required to pay current debt and interest charges.

Section 8.8 Receiving, Depositing, and Investing City Funds.

The City Treasurer shall receive all City money, regardless of the source, and shall deposit it promptly in depositories designated by the City Commission. The City Commission shall provide for the security of City money as is authorized or permitted by State law. Personal surety bonds shall not be considered proper security. The City Manager and City Treasurer shall propose, and the City Commission shall adopt, a policy governing the placement of City money. Among the matters to be covered in the policy approved by the City Commission are the following:

- (a) Minimum security standards for financial institutions acting as depositories for City money;
- (b) The types of interest-bearing investments, consistent with State law, the City Treasurer may make with City funds;
- (c) The general performance standards for investment of City money;
- (d) The frequency of the City Treasurer's reports on City investments; and
- (e) The practices regarding the crediting of interest earnings.

Section 8.9 Independent Audit and Manager's Report.

(a) The City Commission shall contract for an independent audit of all accounts of the City government at least once each year. The audit shall be made by certified public accountants experienced in municipal accounting. In no case shall the City Commission approve or extend a contract to have the same firm audit City accounts for more than six successive years. The results of the audit shall be available in the office of the City Clerk for public inspection.

(b) The City Manager shall produce an annual report of City business. The report, to be made available to the residents of the City, shall disclose facts describing the activities and financial transactions of the City in summary form.

Section 8.10 Purchasing Procedure: Bids, Contracts, Regulations.

Detailed purchasing and contracting procedures shall be established by Ordinance. The City Manager shall be responsible for City purchasing in the manner consistent with City ordinances. Competitive prices for purchases and public improvements shall be obtained, and the purchase made from, or the contract awarded to the qualified bidder as regulated by the purchasing ordinance. Formal sealed bids shall be obtained in all transactions involving the expenditure of \$7,500 or more and the transaction, evidenced by written contract, submitted to and approved by the City Commission. The City Commission may authorize the making of public improvements or the performing of any other City works by any City department or agency without competitive bidding.

Upon written recommendation of the City Manager, the City Commission may waive the requirement of formal sealed bids for an expenditure of \$7,500 or more by an affirmative vote of four (4) or more City Commissioners determining that it would be in the City's best interest to do so.

Section 8.11 Emergency Purchasing.

In the event of an emergency, the City Commission may temporarily suspend one or more provisions of Section 8.10. In declaring an emergency under this section, the City Commission shall:

- (a) Define the emergency.
- (b) State the anticipated term of the emergency which shall not exceed 120 days.
- (c) Approve the suspension by the affirmative vote of not less than four City Commission members.

CHAPTER IX. TAXATION

Section 9.1 Power to Provide Funds.

The City shall have the power to assess and collect taxes. The City shall also have the power to establish and collect rents, tolls, and excises.

Section 9.2 Subject of Taxation.

Property subject to ad valorem taxation for City purposes shall be that defined by State law. City taxes shall be levied, collected, and returned in the manner provided by State law.

Section 9.3 Board of Review.

The City Commission shall establish a Board of Review and appoint five City residents to the Board for two-year terms. The terms shall be staggered so that not more than three terms expire each year. Vacant board positions shall be filled in accordance with Section 3.5 (e) of this Charter. The City Commission shall establish the compensation for board members. The Assessor shall be the Clerk of the Board of Review but shall not vote on Board actions. The Mayor, with the consent of the City Commission, may remove any member of the Board of Review for misconduct or neglect of duty.

Section 9.4 Meeting of the Board of Review.

The Board of Review shall perform in the City those duties assigned by State law. The Board of Review shall elect its own chairperson at its first meeting in each calendar year. If the chairperson is absent, those in attendance may elect a member to be temporary chairperson.

Section 9.5 Notice of Meetings.

The Assessor shall give notice of the time and place of the meeting of the Board of Review according to State law.

Section 9.6 Duties of Board of Review.

The Board of Review shall consider the verbal or written complaints of all persons considering themselves aggrieved by assessments. If, in the judgment of the Board, property has been improperly classified, assessed, added to or omitted from the roll, the Board shall correct the roll as it considers appropriate and consistent with State law. After the Board of Review has completed its review of the assessment roll, a majority of its members shall sign and certify the roll according to State law.

Section 9.7 Assessment Roll.

The Assessor shall spread upon the approved assessment roll the amounts determined by the City Commission to be charged, assessed, or reassessed against persons or property in accordance with State law.

Section 9.8 Tax Roll Certified for Collection.

The Assessor shall create and certify the tax roll and attach his or her warrant to the roll and thereby direct and require the City Treasurer to collect from the persons named in the roll, the amounts shown opposite their respective names as a tax or assessment.

Section 9.9 Taxes Lien on Property.

The taxes thus levied on July 1 or, if later, as soon as they are levied, shall become a debt to the City from the persons against whom they are levied. The amounts levied, together with all legal charges, shall be a lien upon the property taxed until they are paid. The City Treasurer shall have the authority and duty to collect the City taxes as granted and required by State law.

Section 9.10 Collection Fees and Interest.

City taxes shall be due on the first day of July of each year. City taxes paid or postmarked, if payment is by mail, on or before the following September 15th shall be collected without additional charge. To all taxes paid on September 16th or later, the City Treasurer shall add one-half of one percent for each and every month, or fraction of a month, to the taxes remaining unpaid, together with a collection fee of four percent of the amount of the unpaid taxes. If September 15th is a Saturday, Sunday or a legal holiday, the City Treasurer shall receive tax payments on the next workday without additional charge. The City Commission, by resolution, may authorize the City Treasurer to accept partial payments on taxes and special assessments, together with interest and collection charges, until the next March 1st.

Section 9.11 State, County and School Taxes.

For the purpose of assessing and collecting taxes for State, County, and school purposes, the City shall be considered the same as a township. All provisions of State law relative to collecting and accounting for taxes and fees to be paid, and the returning of property to the County treasurer for non-payment, shall apply to the City Treasurer. If school taxes are collected at the same time as City taxes, they shall be collected the same as City taxes.

Section 9.12 Failure to Pay Personal Property Taxes.

If any person fails to pay any tax imposed upon his or her personal property, the City Treasurer shall proceed to collect such taxes in accordance with procedures specified in State law.

CHAPTER X. BORROWING POWER

Section 10.1 General Borrowing Power.

Subject to the applicable provisions of State law and this Charter, the City Commission, by ordinance or resolution, may direct City officers to borrow money for any purpose within the scope of the powers vested in the City and to issue bonds or other evidence of City indebtedness. The City Commission shall not issue unlimited tax bonds without the approval of a majority of the electors voting in an election on a proposal to issue such bonds.

Section 10.2 Special Assessment Bonds.

The City Commission, subject to provisions of State law, may borrow money in anticipation of collecting special assessments made for the purpose of defraying the cost of any public improvement, or issue bonds in anticipation of collecting any combination of special assessments. The special assessment bonds may be solely an obligation of the related special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City. All collections on each special assessment roll, or combination of rolls, shall be set apart in a separate fund for the payment of the principal and interest of the bonds issued in anticipation of the payment of such special assessments, and shall be used for no other purpose.

Section 10.3 Other Bonds.

The City may issue revenue, limited tax, or other types of bonds in the manner and for the purpose permitted by the Constitution and general laws of the State of Michigan.

Section 10.4 Preparation and Record of Bonds.

Bonds shall be prepared, issued, recorded, and paid according to state law.

Section 10.5 Unissued Bonds.

No bond of the City shall be sold to secure funds for any purpose other than that for which it was authorized. Any bond not sold within five years of its authorization, shall be void.

Section 10.6 Limitation on Indebtedness.

The City indebtedness shall be limited according to State Law.

CHAPTER XI. SPECIAL ASSESSMENTS

Section 11.1 City Commission Resolution.

The City Commission shall have authority, by resolution, to determine that the entire cost or any part of the cost of a public improvement is to be paid by special assessments on property specially benefited. The resolution shall state the estimated cost of the improvement, what proportion of the improvement's cost is to be paid by special assessment, and what part, if any, is to be paid by the City, and the number of installments in which assessments may be paid. The City Commission shall designate the district or the land and properties on which the special assessments are to be levied.

Section 11.2 Procedure Set by Ordinance.

The City Commission shall prescribe by ordinance the complete special assessment procedure concerning plans and specifications, estimating costs, notices of hearings, preparing the assessment roll, correcting errors, collecting special assessments and any other matters pertinent to the process of making improvements with special assessments.

CHAPTER XII. MUNICIPAL UTILITIES

Section 12.1 General Powers.

The City shall possess, and hereby reserves to itself, all the powers granted cities by the Michigan Constitution and State law to own, operate, and maintain public utilities for supplying water, light, heat, power, gas, sewage treatment, and disposing or recycling of waste, as well as facilities for housing its citizens. The City may sell and deliver these and other services to residents in the City, and it may sell and deliver water, light, heat, power, gas and other utility services outside the City to the extent permitted by State law.

Section 12.2 Rates.

The City Commission shall have the power to set and change the rates for City utility services.

Section 12.3 Collection of City Utility Charges.

The City Commission shall provide by ordinance for the collection of all charges for city-owned public utilities. Such ordinances may provide that any amount due the City for utilities remaining unpaid shall be charged against the real property on which the service was rendered unless such bills are covered by deposits, or unless the owner-landlord has filed with the City an affidavit or lease as provided by State law. The amount of such unpaid bills shall be spread on the next regular City tax roll after the date on which such charge became due and payable and shall become a lien of the same character and effect as the lien created by State and County taxes unless the owner-landlord has filed with the City an affidavit or lease as provided by State law. If a utility customer fails to pay the City any amounts due on utility bills, or post any deposit required by City ordinance, the City may discontinue the service. The City may initiate a suit to collect the amounts due.

Section 12.4 Accounts.

The City shall maintain separate accounts for each public utility the City owns and operates. The accounting procedures used shall comply with State law and Generally Accepted Accounting Principles. After each fiscal year, the City shall produce a report on the financial results and make the report available for public inspection in the office of the City Clerk.

Section 12.5 Disposal of Utility Plants and Property.

The City Commission is not authorized to sell, exchange, lease, or dispose of any unexpendable assets belonging to any City utility system unless three-fifths of those electors voting in an election thereon approve the proposition for such purpose. The provisions of this Section, however, shall not apply to the sale or exchange of equipment which is worn out or useless or which, with advantage to the service, could be replaced by new and improved machinery or equipment.

CHAPTER XIII. CONTRACTS, FRANCHISES, PERMITS

Section 13.1 City May Perform Public Works.

The City Commission shall have the authority to do any public work or make any public improvement by employing the necessary labor and purchasing necessary supplies and materials. Alternatively, the City Commission may accomplish a public work or improvement by competitively bid contracts or by any legally constituted plan under which the labor is furnished by an agency of the United States government or the State of Michigan.

Section 13.2 Plans and Specifications.

The City Manager is responsible for preparing plans and specifications, estimating the costs, advertising for bids, supervising, and approving the work for any public work or public improvement except where this Charter provides differently.

Section 13.3 Contracts.

(a) Before the City enters into a written contract with a second party, the City Attorney shall draw or approve the instrument as to form. The officer charged with maintaining the City accounting system shall certify as to the sufficiency of funds. The letting and making of written contracts is vested in the City Commission. Copies of all written contracts shall be filed in the office of the City Clerk.

(b) Alterations or change orders to contracts in excess of seven thousand five hundred (\$7,500) dollars shall be made only by resolution of the City

Commission. No such order shall be effective until the price to be paid for the material and work under the altered contract has been agreed to and the order has been written and signed by the contractor and the City Manager, upon authority of the City Commission. The City Clerk shall attach to the original contract a copy of the signed agreement.

Section 13.4 Limitation on Leasing of City Property.

Any lease of City property made by the City Commission for a period longer than five years shall be subject to referendum in the manner provided in Section 7.10 of the Charter relating to calling a referendum on ordinances. A petition calling for a referendum on a lease under this provision must be taken within 30 days from the date of the lease. If a

proper petition has not been filed with the City Clerk within 30 days from the date of the lease, the lease shall be valid and binding. Before the City Commission grants a lease, the lessee shall file an unconditional acceptance of the terms of the lease with the City Clerk.

Section 13.5 Franchises.

A franchise which is not revocable at the will of the City Commission shall not be granted or become operative until it has been referred to the electors and approved by three-fifths of the electors voting in the election thereon. All irrevocable public utility franchises and all renewals, extensions and amendments thereof shall be granted only by ordinance. The City Commission shall not refer such an ordinance to the electorate until the application has been on file for 30 days or until a public hearing on it has been held. The ordinance shall not be submitted to an election to be held less than 30 days after the grantee named therein has filed with the City Clerk an unconditional acceptance of all the terms of the franchise and the expense of holding the election has been paid to the City Treasurer by the grantee. The City shall not grant an exclusive franchise or a franchise for a term longer than 30 years.

Section 13.6 Leases, Licenses and Franchises Remain in Effect.

All City leases, licenses and franchises in force when this Charter becomes law shall remain in full force and effect.

Section 13.7 Control and Revocation of Franchise.

The City Commission shall institute all actions or proceedings as may be necessary to prosecute a public utility company for violating its franchise, this Charter, or City ordinances. The City Commission may revoke, cancel, or annul any franchise which has become inoperative, illegal or void.

Section 13.8 Conditions of Public Utility Franchise.

All public utility franchises granted after the adoption of this Charter, whether provided in the granting ordinance or not, shall be subject to the following rights of the City. However, this enumeration is not to be construed as being

exclusive or as impairing the right of the City Commission to insert conditions, requirements or limitations in such franchises. With regard to public utility franchises, the City retains the rights:

(a) To repeal the same for misuse, non-use, or failure to comply.

(b) To require proper and adequate extension of plant, service, and maintenance at the highest practicable standard of efficiency.

(c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise.

(e) To impose such other regulations as may be determined by the City Commission to promote or protect the safety, welfare and accommodation of the public.

Section 13.9 Use of Street by Utility.

Every public utility franchise shall be subject to the right of the City to use, control, and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improving or maintaining streets, alleys, bridges and public places as shall arise from its use thereof, and shall protect and hold the City harmless from all damages arising from said use. The City may require every franchise to permit joint use of its property and appurtenances located in the streets, alleys and public places by the City and by other utilities insofar as such joint use may be reasonably practicable. The City Commission shall arbitrate the terms and conditions of joint use and the compensation to be paid. The City Commission's decision shall be final.

CHAPTER XIV. CITY PLANNING COMMISSION

Section 14.1 Planning Commission Organization.

The Planning Commission shall be formed by an ordinance adopted by the City Commission. Pursuant to State Law, the Planning Commission shall consist of seven members unless modified by the City Commission. Members shall be appointed by the Mayor, subject to approval by the City

Commission. Members of the Plan Board serving at the time this Charter becomes effective shall continue to serve on the Planning Commission until their terms expire. The City Manager or a staff designee shall serve as a non-voting ex-officio member of the Planning Commission and shall attend all meetings of the Planning Commission. According to state law: (1) Members of the Planning Commission may be compensated for their attendance at Planning Commission meetings as authorized by the City Commission; (2) One member of the Planning Commission may be an individual who is a qualified elector of a local unit of government other than the City of Big Rapids.

Section 14.2 Term of Office.

Terms of office for Planning Commission members shall begin on the first Monday in May and continue for three years. The terms shall be staggered so that not more than three terms expire in any one year. No person shall serve more than three consecutive terms on the Planning Commission. However, a person appointed to fill a vacancy of which less than one-half term remains may be appointed to three consecutive full terms.

Section 14.3 Organization and Officers.

At the first meeting in September of each year, the Planning Commission shall elect a chairperson and secretary from its members, and other officers, as the Planning Commission deems necessary. No person shall serve as chairperson for more than three consecutive years. A designee of the City Manager shall take minutes of the Planning Commission meetings and file the minutes with the City Clerk.

Section 14.4 Responsibilities and Duties.

The Planning Commission shall be an advisory board to the City Commission, and shall perform all of the responsibilities and duties provided by State law and City ordinance. Duties shall include the preparation and updating of a master plan and a capital improvements program for the City. The Planning Commission shall conduct public hearings and make recommendations to the City Commission on all rezoning requests or proposals, and the enactment of all zoning ordinance provisions or amendments. The Planning Commission shall make reports and recommendations to the City Commission on other matters the City Commission considers appropriate.

Section 14.5 Meetings.

The Planning Commission shall meet in regular session at least once each month, unless there is no business to be conducted. At the first meeting in September, the Planning Commission shall adopt a regular schedule of meetings for the next year. The Planning Commission shall adopt by-laws and rules of procedure for transacting its business.

Section 14.6 Removal from Office.

The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. The Mayor and City Commission shall remove from office any member of the Planning Commission who is absent from three consecutive meetings, unless the Planning Commission excuses the absences and enters the reasons for absences in its official minutes.

CHAPTER XV. LIBRARY BOARD

Section 15.1 Library Board Organization.

The Library Board shall consist of five directors appointed by the Mayor subject to approval by the City Commission. No person shall receive compensation for serving as a Library Board director.

Section 15.2 Term of Office.

The term of office, beginning on the first Monday in May, shall be five years. One director shall be appointed each year to a five-year term, unless it is necessary to appoint more to fill vacancies. The term of office for directors may be changed by ordinance to not less than two years or more than five years. Directors of the Library Board serving at the time of this Charter becomes effective shall continue to serve until their terms expire. No director shall serve more than two consecutive terms, and no chairperson shall serve more than five consecutive years. However, a person appointed to fill a vacancy of which less than one-half term remains may be appointed to two consecutive full terms.

Section 15.3 Organization and Officers.

On the first meeting in September each year, the Library Board shall elect one of its directors as chairperson, and other officers as the Board deems

necessary. The Library Director or the Library Director's designee shall take minutes of the Library Board meeting and file the minutes with the City Clerk.

Section 15.4 Management of Big Rapids Community Library.

The Library Board shall be responsible for the care and management of the Big Rapids Community Library. The Board shall make and adopt bylaws and regulations for governing the library. The Board shall select and appoint a Library Director and other employees as it deems necessary, subject to the budgetary approval of the City Commission.

Section 15.5 Library Fund.

All money donated or granted to the Library shall be deposited with the City Treasurer and credited to the Library Fund. The Library Board shall have exclusive control and supervision over the expenditure of money received for the Library Fund and of the rooms and buildings provided for library purposes subject to the restrictions provided by law, donors or grantors. The City Treasurer shall release funds from the Library Fund only upon the properly authenticated vouchers of the Library Board.

Section 15.6 Annual Report.

The Library Board shall present to the City Manager its estimate of the amount of money that should be appropriated during the next fiscal year to operate the Library. The Library Board shall report to the City Commission each year on the finances, activities, and programs of the Library.

Section 15.7 Meetings.

At the first meeting in September, the Library Board shall adopt a schedule of its regular meetings for the next year, with at least nine meetings each year. The Library Board shall adopt by-laws with rules of procedure for transacting its business.

Section 15.8 Removal from Office.

The Mayor, with the consent of the City Commission, may remove any member of the Library Board for misconduct or neglect of duty. The Mayor and City Commission shall remove from office any member of the Library Board who is absent from three consecutive meetings, unless the Library Board excuses the absences and enters the reasons for

absences in the Board's official minutes.

Section 15.9 Donations.

Any person making donations of money, personal property, or real estate for the benefit of the Big Rapids Community Library may vest the title of the donated property in the Library Board. When the Library Board accepts the property, it shall hold and manage the property according to its power granted by the state law and the terms of the deed, gift, devise or bequests.

CHAPTER XVI. PARK AND RECREATION BOARD

Section 16.1 Park and Recreation Board Organization.

The Park and Recreation Board shall consist of nine members. Persons serving as Park and Recreation Board members at the time this Charter becomes effective shall continue to serve until their terms expire. The City Manager, or a staff designee, shall be a non-voting ex-officio member of the Park and Recreation Board and shall attend all meetings of that board.

Section 16.2 Term of Office.

Terms of office for Park and Recreation Board members shall begin on the first Monday in May and continue for three years. The terms shall be staggered so that not more than three terms expire each year. No person shall serve more than three consecutive terms on the Board. However, a person appointed to fill a vacancy of which less than one-half term remains may be appointed to three consecutive full terms.

Section 16.3 Organization and Officers.

At the first meeting in September each year, the Park and Recreation Board shall elect one of its members to be chairperson. In addition, the Park and Recreation Board shall elect other officers as the Board deems necessary. A designee of the City Manager shall take minutes of the Park and Recreation Board meetings and file the minutes with the City Clerk. No member shall serve as chairperson for more than three consecutive years.

Section 16.4 Duties of Board.

The Park and Recreation Board, subject to the direction and ordinances of the City Commission, shall be responsible for the stewardship and management of all City parks, recreation and entertainment structures, playgrounds and resting places, and all shade trees, shrubs and plants growing on City land.

Section 16.5 Disposition of Revenues.

All revenues derived from park recreation and entertainment operations shall be deposited with the City Treasurer who shall credit them to the general fund. Funds donated or granted for park purposes shall be used only for the purposes agreed to in receiving the funds. The funds shall be placed in the appropriate restricted accounts and disbursed at the direction of the Park and Recreation Board, subject to the approval of the City Commission.

Section 16.6 Amount to be Appropriated.

The Park and Recreation Board shall present to the City Manager its estimate of the amount of money that should be appropriated for the next fiscal year to maintain the properties and conduct the programs under the jurisdiction of the Park and Recreation Board. The Park and Recreation Board shall report to the City Commission each year on its finances, activities, and programs.

Section 16.7 Meetings.

At the first meeting in September, the Park and Recreation Board shall adopt a schedule of its regular meetings for the next year, with at least nine meetings each year. The Park and Recreation Board shall adopt bylaws with rules of procedure for transacting its business.

Section 16.8 Removal from Office.

The Mayor, with the consent of the City Commission, may remove any member of the Park and Recreation Board for misconduct or neglect of duty. The Mayor and City Commission shall remove from office any member of the Park and Recreation Board who is absent from three consecutive meetings, unless the Park and Recreation Board excuses the absences and enters the reasons for absences in its official minutes.

CHAPTER XVII. CEMETERY BOARD

Section 17.1 City Cemetery.

The City Commission, within the limitations of this Charter, may appropriate money necessary to purchase and operate cemetery grounds. The City may own and operate such public burial places, either in or outside the City, as the City Commission considers necessary for the public welfare and convenience of residents of the City. Whenever the City owns and operates a cemetery, the Commission shall establish a Board of Cemetery Trustees.

CHAPTER XVIII. MISCELLANEOUS

Section 18.1 No Estoppel by Representation.

No official of the City has authority to make any representation or recital of fact contrary to any franchise, contract, document, resolution, ordinance, agreement or public record of the City. Any such representation or recital of fact shall be void and of no effect against the City.

Section 18.2 Records to be Public.

All records of the City shall be public and made available to the general public in accordance with the provisions of the State Freedom of Information Act.

Section 18.3 Headings.

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

Section 18.4 Effect of Illegality of Any Part of Charter.

Should any provision or section, or portion thereof, of this Charter be held by a court to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this Charter as a whole or of any remaining portion of such provisions or section. It is hereby declared to be the intent of the Charter Commission and of the electors who voted on this Charter that such unconstitutionality or illegality shall affect only the validity of that part specifically affected by the holdings.

Section 18.5 Saturdays, Sundays and Holidays.

Whenever a date referred to in this Charter or by ordinance for doing or completing an act falls on a Saturday, Sunday, or legal holiday, the act shall be done or completed on the next succeeding City business day.

CHAPTER XIX. SCHEDULE

Section 19.1 Election to Adopt this Charter.

This Charter shall be submitted to a vote of the qualified electors of the City at an election to be held on Tuesday, August 7, 2012 or Tuesday, November 6, 2012. This election shall be conducted by the officers responsible for conducting and supervising elections, following election procedures provided by law.

Section 19.2 Form of Ballot.

The form of the ballot for the submission of this Charter shall be as follows:

"Shall the proposed Charter for the City of Big Rapids drafted by the Charter Revision Commission elected November 3, 2009 be adopted?"

Section 19.3 Mayor Elected on November 5, 2013

A general municipal election shall be held on November 5, 2013, at which the candidate elected to the office of Mayor shall serve a term beginning November 18, 2013 and ending the first City Commission meeting after the election in 2017.

Section 19.4 Effective Date of This Charter.

For all purposes not otherwise provided for in this Charter, if approved by the electors at the August 7, 2012 election, then this Charter shall take effect October 9, 2012, or if approved by the electors at the November 6, 2012 election, then this Charter shall take effect on January 9, 2013.

Section 19.5 Continuation in Office.

The City Commission existing on the effective date of this Charter shall continue in office as provided for elsewhere in this Charter and no term of office shall be shortened or lengthened by operation

of this Charter. All appointed officers and employees of the City shall continue in their respective offices and employment as though they had been appointed or employed in the manner provided in this Charter and shall, in all respects, be subject to the provisions of this Charter.

Section 19.6 Status of Schedule Chapter.

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

Section 19.7 Resolution.

At the special meeting of the Charter Revision Commission of the City of Big Rapids held on the 22nd day of May 2012, the following resolution was offered by Revision Commissioner Edward Burch.

RESOLVED, that the Charter Revision Commission of the City of Big Rapids hereby adopts the foregoing proposed Charter for the City of Big Rapids, and the Clerk of this Commission is directed (1) to transmit a copy of this Charter to the Governor of the State of Michigan for his approval in accordance with the statutes of the State, (2) to file with the City Clerk a copy of this Charter and (3) to cause this proposed Charter to be published in the Big Rapids Pioneer after approval by the Governor of the State of Michigan.

The resolution was seconded by Charter Revision Commissioner Robert Krueger and adopted by the following vote:

Yeas: Burch, Fleming, Hansen, Hendrickson, Krueger, Rothstein and Wortley.

Nays: None

The Chairperson declared the foregoing resolution carried and requested the members of the Charter Revision Commission to authenticate said resolution and also the copies of the Charter to be presented to the Governor and filed with the City Clerk by signing this Charter.

Luanne Rothstein, Chairperson
Edward Burch
Pamela Fleming
Richard Hansen
Robert Hendrickson
Robert Krueger, Vice-Chairperson
Mary Ryan - Absent
Alma Wortley

I, Roberta R. Cline, City Clerk hereby certify that the foregoing is a true and complete copy of the proposed City Charter for the City of Big Rapids as adopted by the Big Rapids Charter Revision Commission at their special meeting of May 22, 2012, and that said copy is that which the City Clerk was directed to forward to the Governor of the State of Michigan for his approval.

Roberta R. Cline /s/,
City Clerk
May 22, 2012

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TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

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CHARTER. The Charter of the City of Big Rapids. ('88 Code, Title I, Ch. 1, § 1.1)

CITY, MUNICIPAL CORPORATION, or MUNICIPALITY. The City of Big Rapids, Michigan. ('88 Code, Title I, Ch. 1, § 1.1)

CITY COMMISSION or COMMISSION. The legislative or governing body of the City as defined in the Charter. ('88 Code, Title I, Ch. 1, § 1.1)

CODE, THIS CODE or THIS CODE OF ORDINANCES. This Code including all additions and amendments thereto known as the "Big Rapids City Code". ('88 Code, Title I, Ch. 1, § 1.1)

COUNTY. The County of Mecosta. ('88 Code, Title I, Ch. 1, § 1.1)

MAY. The act referred to is permissive.

§ 10.01 TITLE OF CODE.

The within Ordinance Code was adopted by the Big Rapids City Commission pursuant to Act No. 46, Public Acts of 1960, State of Michigan, and ordered printed.

§ 10.02 CAPTIONS.

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

§ 10.03 DEFINITIONS.

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

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

PERSON. Includes firms, joint adventures, partnerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof. ('88 Code, Title I, Ch. 1, § 1.1)

PUBLIC PLACE. Any street, alley, park, canal, waterway, beach, public building, or any place of business or assembly open to the public or frequented by the public. ('88 Code, Title I, Ch. 1, § 1.1)

OFFICERS. The several officers' titles means such officers of the City. ('88 Code, Title I, Ch. 1, § 1.1)

SHALL. The act referred to is mandatory.

STATE. The State of Michigan. ('88 Code, Title I, Ch. 1, § 1.1)

SUNDAYS and **LEGAL HOLIDAYS.** Whenever any act required to be done pursuant to the provisions of this code falls on a Sunday or legal holiday, that act shall be performed on the next succeeding business day. ('88 Code, Title I, Ch. 1, § 1.1)

WRITTEN or **IN WRITING.** May include any form of reproduction or expression of language. ('88 Code, Title I, Ch. 1, § 1.1)

§ 10.04 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the City Council or of the context of the same ordinance:

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

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

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

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

§ 10.05 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect 1997 S-1

other provisions that can be given effect without the invalid provision or application.

§ 10.06 REFERENCE TO OFFICES; ACTS REQUIRED.

Whenever in accordance with the provisions of this code any specific act is required to be done by any designated officer or official of the City, such act may be performed by any duly authorized City officer or employee. ('88 Code, Title I, Ch. 1, § 1.2)

Cross-reference:

General provisions regarding officers of the City, see Charter, Ch. V

§ 10.07 OFFICIAL TIME.

Whenever time is referred to it means eastern standard time or the time officially in force in the city. ('88 Code, Title I, Ch. 1, § 1.1(12))

§ 10.08 REASONABLE TIME.

In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

§ 10.09 ORDINANCES REPEALED.

For provisions concerning the repeal of ordinances, see Section 7.4 of the Charter.

§ 10.10 CODE REVISIONS.

The City Clerk is directed and authorized to order or reorder the numbering of the sections of the City Code that have been affected by the enactment, repeal, or amendment of ordinances. (Ord. 259-2-89, passed 2-6-89)

§ 10.11 APPROVAL OF LEGAL DOCUMENTS.

The Mayor shall sign, the City Clerk shall attest to, the City Manager shall approve at to substance,

and the City Attorney shall approve as to form, all contracts and agreements requiring the assent of the City, unless otherwise provided for my law, the Charter, ordinance or the provisions of this code. (Ord. 259-2-89, passed 2-6-89)

§ 10.12 CONTENTS OF CODE.

This code contains all ordinances of a general and permanent nature of the City and includes ordinances dealing with municipal administration, utilities and services, parks and public grounds, streets and sidewalks, zoning and planning, food and health, businesses and trades, building, electrical, heating and plumbing regulations, police regulations [i.e., general regulations] and traffic regulations, and excludes ordinances granting franchises and special privileges, establishing sewer and other public improvement districts, providing for the construction of particular sewers, streets or sidewalks, or for the improvement thereof, and for the construction and improvement of other public works, authorizing borrowing of money or the issuance of bonds. The Zoning Ordinance of the City, being Ord. 72-8-69 of the City, as amended to the date of the adoption of this code, is adopted by reference in Title XV of this code and published by the City as a separate pamphlet, except as section numbers and references to other ordinances of the City are changed to conform to the code numbering system. The adoption of this code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the City in effect on the date of adoption of this code. ('88 Code, Title I, Ch. 1, § 1.7)

§ 10.13 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (MCL § 335.301) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

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

§ 131.10 CONTROLLED SUBSTANCES.

"Controlled substances," when used in this section, shall have the same meaning as set forth in state law.

(Ord. 10, passed 1-1-80)

Statutory reference:

For provisions concerning controlled substances, see MCL § 335.301 et seq.

§ 10.14 NOTICES SERVED BY THE CITY.

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

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

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

(3) By mailing the notice by regular mail to the last known address of the owner and posting the notice in some conspicuous place on the real property; or

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

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

(C) Notice regarding real property within the City may be made to an owner via first class mail to a local contact person designated by the owner as provided in § 151.21.

('88 Code, Title I, Ch. 1, § 1.9; Am. Ord. 511-04-03, passed 4-7-03; Am. Ord. 626-07-10, passed 7-6-10) Penalty, see § 10.99

§ 10.97 MUNICIPAL CIVIL INFRACTIONS.

(A) *Definition.* “Municipal civil infraction” means a civil infraction involving a violation of any of the following ordinances of the City:

(1) All of the ordinances within Title XV, including but not limited to Chapter 150 Building Regulations, Chapter 151 Housing Regulations, Chapter 152 Flood Hazard Area Construction, Chapter 153 Subdivision Regulations, and Chapter 154 Zoning Ordinance.

(2) Noise ordinance regulations specified in Title IX, §§ 90.15, 90.17, 90.18 and 90.19.

(3) Nuisance and litter provisions specified in Title IX, §§ 90.26, 90.27, 90.28, 90.30, and 90.31.

(4) Blight and junk ordinance regulations in Title IX, §§ 90.35, 90.36, 90.37, and 90.38.

(5) Radio and television interference ordinance regulations specified in Title IX, Sections 90.55, 90.56, and 90.57.

(6) All animal ordinance regulations in Title IX, Chapter 91.

(7) All park ordinance regulations in Title IX, Chapter 92, except § 92.01.

(8) All of the ordinance provisions in Title IX, Chapters 93, 94, and 95 pertaining generally to trees, crosswalks, driveways, sidewalks, and advertisements.

(9) All ordinance provisions for skateboards, roller skates, and bicycles in Title VII, Chapter 72.

(10) All garbage, rubbish, trash, and yard waste regulations in Title V, Chapter 50.

(11) All fire prevention regulations in Title IX, Chapter 96, and smoke detector regulations specified in Title XV, Chapter 151.

(12) Any other ordinance section or provision, the violation of which is designated specifically as a municipal civil infraction.

(B) *Violation.* A violation includes any act which is prohibited or made or declared to be unlawful or an offense by City ordinance, and any omission or failure to act where the act is required by City ordinance.

(C) *Authorized City Officials.*

(1) *Building Inspector.* The Building Inspector is designated as the authorized City official to issue municipal civil infraction citations for alleged violations of:

(a) The state construction code, International Property Maintenance Code, or any other code adopted by the City regulating the construction of buildings in the City.

(b) The International Property Maintenance Code or any other code adopted by the City regulating the minimum acceptable standards for the maintenance of existing buildings and structures.

(c) All other City ordinance housing or building regulations in Title XV, Chapter 151.

(d) City subdivision ordinance regulations in Title XV, Chapter 153.

(e) City zoning ordinance regulations, Title XV, Chapter 154.

(f) Nuisance and litter regulations specified in Title IX, Chapter 90, being §§ 90.15, 90.17, 90.18, and 90.19.

(g) Blight and junk regulations specified in Title IX, Chapter 90, being §§ 90.35, 90.36, 90.37 and 90.38.

(h) Garbage, rubbish, trash, and yard waste regulations in Title V, Chapter 50.

(i) Parking in a front yard area not improved or designated for parking of motor vehicles.

(2) *Zoning Administrator and Code Enforcement Officer.* The Zoning Administrator is designated as the authorized City official to issue municipal civil infractions for alleged violations of the City zoning ordinance. The Zoning Administrator and Code Enforcement Officer are designated as the authorized City officials to issue municipal civil infraction citations for the alleged violations of:

(a) City subdivision ordinance regulations, Title XV, Chapter 153.

(b) Nuisance, litter, blight and junk regulations specified in Title IX, Chapter 90, being §§ 90.15, 90.17, 90.18, 90.19, 90.35, 90.36, 90.37 and 90.38.

(c) The International Property Maintenance Code or any other code adopted by the City regulating the minimum acceptable standards for the maintenance of existing buildings and structures.

(d) Garbage, rubbish, trash, and yard waste regulations in Title V, Chapter 50.

(e) Parking in a front yard area not improved or designated for parking of motor vehicles.

(3) *Fire fighters.* All certified fire fighters within the City's Department of Public Safety are designated as authorized city officials to issue municipal civil infraction citations for alleged violations of fire prevention regulations specified in Title IX, Chapter 96, and smoke detector regulations in Title XV, Chapter 151, and housing regulations in Title XV, Chapter 151.

(4) *Police officers.* All certified police officers within the City's Department of Public Safety, and certified police officers from other jurisdictions assisting the Department of Public Safety, are designated as authorized city officials to issue municipal civil infraction citations for alleged violations of all city ordinances for which the penalty is not a misdemeanor.

(5) *Service Officers.* All Service Officers within the City Department of Public Safety designated by the Director of Public Safety to investigate disabled and inoperable motor vehicles are authorized city officials to issue municipal civil infraction citations for alleged violations of city ordinance § 90.70, Disabled and Inoperable Motor Vehicles.

(6) *Property Maintenance Inspectors.* All Property Maintenance Inspectors within the City Department of Neighborhood Services are authorized city officials to issue municipal civil infraction citations for alleged violations of city ordinance § 90.70, Disabled and Inoperable Motor Vehicles.

(D) *Basis for issuing municipal civil infraction citations.*

(1) An authorized city official can issue a municipal civil infraction citation upon witnessing a person violate an ordinance, or upon the official's investigation and reasonable cause to believe that a person is responsible for a municipal civil infraction. An authorized city official may issue a municipal civil infraction citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, the official has reasonable cause to believe the person is responsible for a municipal civil infraction and the City Attorney approves in writing the issuance of the citation.

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

(3) The citation serves as the complaint in a municipal civil infraction action and may be filed either on paper or electronically.

(E) *Penalty.*

(1) The penalty for a municipal civil infraction shall be a fine of not less than \$25 dollars and not more than \$500, plus costs of not less than \$9 and not more than \$500. Costs may include all expenses, direct and indirect, to which the City has been put in connection with the municipal civil infraction up to the entry of judgment. The City may seek or employ all other remedies and sanctions available under state law for municipal civil infractions.

(2) The penalty for repeat offenses of the same ordinance provision within two years of a prior offense shall be a fine of not less than \$50 and not more than \$1,000, plus costs and all other remedies and sanctions available under state law for municipal civil infractions.

(3) Proof of a prior offense shall be established by a judgment, order, or abstract of the district court.

(Ord. 399-11-95, passed 11-20-95; Am. Ord. 428-10-97, passed 10-6-97; Am. Ord. 509-02-03, passed 2-3-03; Am. Ord. 676-07-14, passed 7-7-14)

§ 10.98 RESPONSIBILITY FOR PROHIBITED ACTS.

Whenever any act is prohibited by this code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do said act. ('88 Code, Title I, Ch. 1, § 1.9)

§ 10.99 PENALTY.

(A) *General penalty.* Whenever in this code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this code or ordinance shall be punished by a fine not exceeding \$500 or imprisonment for a term not exceeding 90 days, or both, except whenever a specific penalty is herein otherwise provided and except as provided for civil infractions as set forth in § 10.97.

('88 Code, Title I, Ch. 1, § 1.5) (Am. Ord. 399-11-95, passed 11-20-95)

(B) *Continuing violations.* In addition to the penalty provided in division (A) of this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

('88 Code, Title I, Ch. 1, § 1.6)

TITLE III: ADMINISTRATION

Chapter

- 30. CITY GOVERNMENT; ORGANIZATION**
- 31. CITY COMMISSION**
- 32. CITY OFFICES AND DEPARTMENTS**
- 33. CITY BOARDS AND COMMISSIONS**
- 34. TAXATION, FINANCE AND PURCHASES**
- 35. PUBLIC IMPROVEMENTS; SPECIAL ASSESSMENTS**
- 36. VACATING, DISCONTINUING OR ABOLISHING STREETS OR
PUBLIC GROUNDS**
- 37. PUBLIC RECORDS**
- 38. PUBLIC ETHICS POLICY**

CHAPTER 30: CITY GOVERNMENT; ORGANIZATION

Section

General Provisions

30.01 City government; organization

Elections

30.15 Elections

30.16 Precincts established

GENERAL PROVISIONS

§ 30.01 CITY GOVERNMENT; ORGANIZATION.

Chapter III of the City Charter fully sets forth the provisions relevant to City government and organization.

ELECTIONS

§ 30.15 ELECTIONS.

Chapter IV of the City Charter fully sets forth the provisions relevant to elections.

§ 30.16 PRECINCTS ESTABLISHED.

The City of Big Rapids is divided into three election precincts, the boundaries of which shall be as follows:

(A) *Precinct No. 1.* All that portion of the City bounded on the west by the City limits, on the north by the City limits, on the east by the Muskegon River, on the south described as: Beginning at a point where the centerline of Oak Street extended east intersects the Muskegon River, thence west along the centerline of Oak Street extended to the centerline of Ives Avenue, thence south along the centerline of Ives Avenue to the centerline of South Street, thence westerly along the centerline of South Street to the centerline of State Street, thence north along the

centerline of State Street to Mitchell Creek, thence westerly along Mitchell Creek to the west City limits and the point of ending.

(B) *Precinct No. 2.* All that portion of the City bounded on the south by the City limits, on the west by the City limits, bounded on the north and the east as follows: Beginning at a point where the centerline of Oak Street extended east intersects the Muskegon River, thence west along the centerline of Oak Street extended to the centerline of Ives Avenue, thence south along the centerline of Ives Avenue to the centerline of South Street, thence westerly along the centerline of South Street to the centerline of State Street, thence north along the centerline of State Street to Mitchell Creek, thence westerly along Mitchell Creek to the west City limits and the point of ending.

(C) *Precinct No. 3.* All that portion of the City of Big Rapids lying east of the Muskegon River and bounded by the City limits and the Muskegon River. ('88 Code, Title I, Ch. 4, § 1.151) (Am. Ord. 110, passed 10-15-73; Am. Ord. 305-6-91, passed 6-17-91; Am. Ord. 308-9-91, passed 9-3-91; Am. Ord. 656-03-13, passed 3-4-13)

CHAPTER 31: CITY COMMISSION

Section

- 31.01 City Commission
- 31.02 Commission rules of procedure;
adopted by reference

Cross-reference:

*Commission to be Board of Health, see
§ 33.80*

§ 31.01 CITY COMMISSION.

Chapters VI and VII of the City Charter fully set forth provisions relevant to the City Commission and city legislature.

§ 31.02 COMMISSION RULES OF PROCEDURE; ADOPTED BY REFERENCE.

The City Commission, by resolution, may adopt and amend its Rules of Procedure for conducting the City Commission Business.

(Ord. 314-6-92, passed 6-15-92; Am. Ord. 474-01-01, passed 1-2-01; Am. Ord. 489-01-02, passed 1-7-02; Am. Ord. 505-01-03, passed 1-6-03; Am. Ord. 526-01-04, passed 1-5-04; Am. Ord. 536-01-05, passed 1-3-05; Am. Ord. 541-03-05, passed 3-21-05; Am. Ord. 542-04-05, passed 4-4-05; Am. Ord. 560-01-06, passed 1-3-06)

Editor's note: *Ord. 314-6-92 repealed Ord. 300-1-91, which set forth the Rules of Procedure.*

CHAPTER 32: CITY OFFICES AND DEPARTMENTS

Section

General Provisions

- 32.01 Departments
- 32.02 Department heads
- 32.03 Surety bonds
- 32.04 Office of the City Manager
- 32.041 Office of Assistant City Manager
- 32.05 Office of the City Clerk
- 32.06 Office of the City Treasurer
- 32.07 Office of the City Attorney
- 32.08 Office of the City Assessor

Department of Public Safety

- 32.15 Department of Public Safety

Department of Public Works

- 32.20 Department of Public Works

Department of Community Development

- 32.40 Department of Community Development

Department of Engineering and Municipal Utilities

- 32.60 Department of Engineering and Municipal Services

GENERAL PROVISIONS

§ 32.01 DEPARTMENTS.

The City shall have the following offices and departments which the City Manager shall supervise and direct, except as otherwise provided by the Charter:

- (A) Office of the City Manager.
- (B) Office of the City Clerk.

- (C) Office of the City Treasurer.
- (D) Office of the City Attorney.
- (E) Office of the City Assessor.
- (F) Department of Public Safety.
- (G) Department of Public Services.

(H) Department of Community Development. ('88 Code, Title I, Ch. 2, § 1.41) (Ord. 280-3-90, passed 3-19-90; Am. Ord. 281-3-90, passed 3-19-90; Am. Ord. 283-3-90, passed 3-19-90; Am. Ord. 284-3-90, passed 3-19-90; Am. Ord. 377-2-95, passed 2-20-95; Am. Ord. 762-07-20, passed 7-20-20)

§ 32.02 DEPARTMENT HEADS.

Under the direction of the City Manager, the head of any department or office identified in § 32.01 except the City Attorney, who heads the Office of the City Attorney, shall:

(A) Direct employees in the performance of all duties, functions, and responsibilities required of the department as provided by law, the Charter, this code and resolutions of the City Commission, and the directives of the City Manager, and measure their performance in accordance with established procedures;

(B) Be responsible to the City Manager for the effective and efficient administration of the department or office and the activities and functions assigned thereto;

(C) Prescribe the internal organization of the department, subject to the approval of the City Manager;

(D) Prescribe and, when necessary, amend and revoke department work rules, subject to the approval of the City Manager;

(E) Keep informed as to the latest practices in their area of responsibilities and duties;

(F) Prepare and submit reports monthly and within 60 days after the end of the fiscal year to the City Manager detailing the activities of the department of office.

(G) Establish a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities;

(H) Preserve and, when permitted by law, dispose of all public records of that department or office and provide a system of filing and indexing;

(I) Serve or designate a staff officer to serve on any committees, authority, commission, or board that is assigned to the department by the Charter, this code, or City Manager;

(J) Provide the maximum level, quantity, and quality of service within the limitations of the annual budget and approved work plans;

(K) Be responsible for manpower planning within the department;

(L) Be custodian of the property assigned to the office or department and be responsible for its care and maintenance;

(M) Plan and execute appropriate training for departmental personnel, subject to the approval of the City Manager;

(N) Recommend to the City Manager policies and procedures designed to improve the quality of City functions and services.

('88 Code, Title I, Ch. 2, § 1.44) (Ord. 257-2-89, passed 2-6-89; Am. Ord. 282-3-90, passed 3-19-90)

§ 32.03 SURETY BONDS.

Surety bonds, as required by the Charter, shall be filed by the following officers and employees of the City in amounts set by resolution:

- (A) Treasurer.
- (B) Manager.
- (C) Deputy Treasurer.
- (D) Clerk.

(E) Deputy Clerk.

(F) Income Tax Administrator.

(G) All other officers and employees, except the Mayor and the City Commissioners.
(Ord. 259-2-89, passed 2-6-89)

Cross-reference:

Surety bonds, see Charter, §§ 5.7 and 8.8

§ 32.04 OFFICE OF THE CITY MANAGER.

(A) The Office of the City Manager includes but is not limited to all of the following functions and responsibilities:

- (1) Personnel administration and employee relations;
- (2) Budget preparation and administration;
- (3) Planning and zoning administration;
- (4) Community and economic development administration;
- (5) The management and supervision of all public improvements, works, and undertakings of the City;
- (6) Purchasing goods and services;
- (7) Risk management;
- (8) Information system planning and management;
- (9) The preparing of plans and specifications, estimating costs, bid advertising, and supervising and approving work for any public work or special improvements;
- (10) Complaint handling and administration of complaint resolution systems; and
- (11) Programming and project initiation, analysis, research, and evaluation.

(B) The Office of the City Manager shall be headed by the City Manager, who shall be the chief administrative officer of the City and who shall be responsible to the City Commission for the administration and performance of the functions of this office. All of the functions of the Office of the City Manager may be delegated by the City Manager to

other departments, officers, or employees. In addition to the powers and duties prescribed in the Charter and this code, the City Manager shall:

(1) Direct, supervise, and administer the overall affairs and activities of the City in accordance with the policies established by the Commission;

(2) Enforce all federal and state laws, the Charter, ordinances, rules and regulations adopted by the City Commission, and the provisions of this code;

(3) Adopt such administrative regulations and procedures in addition to, but not inconsistent with, the Charter, the code and the resolutions of the City Commission as shall be deemed necessary to provide for the adequate functioning of all departments;

(4) Prescribe by regulation the duties, responsibilities, and qualifications of the officer and employees of the various City departments which are not otherwise provided for by Charter or Code;

(5) Be permitted to set aside any action taken by any department head, and to supersede the functions, duties, and powers of that office; as to charter officers appointed by the Commission such action shall be subject to approval by the Commission;

(6) Represent the City and assert its proper interests in relation to the state and other political subdivisions;

(7) Designate self or assign any other officer or employee of the City to perform the duties and exercise the functions of any office or position during a vacancy until such vacancy is filled in accordance with the Charter or an absence, disability, or inability from any cause during the time of such absence or disability;

(8) Establish and maintain a system for the control of the expenditure of monies belonging to the City;

(9) Submit a summary of departmental reports to the Commission within ten days of such reports being filed with the City Manager, except a summary of the annual reports shall be submitted within 30 days of being submitted to the City Manager;

(10) Investigate all complaints and inquire into the affairs or operations of any department,

office, or other agency, authority, board, or commission of the City, except that of the City Commission;

(11) Prepare the agenda of business for all regularly scheduled meetings of the City Commission and other boards, commissions, and authorities of City government not inconsistent with federal and state laws, the Charter, and the provisions of this code; and

(12) Set the wages or salaries of employees in accordance with budget appropriations, except as otherwise provided for by charter or collective bargaining agreements.
(‘88 Code, Title I, Ch. 2, § 1.45) (Ord. 257-2-89, passed 2-6-89; Am. Ord. 280-3-90, passed 3-19-90; Am. Ord. 282-3-90, passed 3-19-90)

§ 32.041 OFFICE OF ASSISTANT CITY MANAGER.

(A) The duties of Assistant City Manager include but are not limited to all of the following functions and responsibilities:

(1) Acting as either a permanent or temporary director of a municipal department(s);

(2) Acting on behalf of the City Manager as directed and in his or her absence.

(3) Other projects and tasks assigned by the City Manager.

(B) The office of Assistant City Manager shall be headed by the Assistant City Manager, who shall be responsible for the administration and performance of its functions.
(Ord. 417-2-97, passed 2-17-97; Am. Ord. 452-9-99, passed 9-20-99)

§ 32.05 OFFICE OF THE CITY CLERK.

(A) The office of the City Clerk includes those functions and responsibilities prescribed in the City Charter or Code, assigned by the City Commission or Manager, and imposed by state or federal law, except the responsibility for maintaining the accounts of the City. Additional functions and responsibilities shall include:

(1) Publish, file, index and safeguard the proceedings of all City authorities, boards, or commissions, except as otherwise provided by law;

(2) Publish all legal notices, except as otherwise provided by law;

(3) Administer the state and federal freedom of information acts.

(B) The office of the City Clerk shall be headed by the City Clerk, who shall be responsible for the administration and performance of its functions. The City Clerk shall be the Clerk of the Commission. The City Clerk also shall serve as or designate a deputy to serve as secretary or clerk of all City authorities, boards, or commissions, except as otherwise provided by law. ('88 Code, Title I, Ch. 2, § 1.46) (Am. Ord. 281-3-90, passed 3-19-90)

§ 32.06 OFFICE OF THE CITY TREASURER.

(A) The office of the City Treasurer includes those functions and responsibilities prescribed in the City Charter or Code, assigned by the City Commission or Manager and imposed by state or federal law. Additional functions and responsibilities shall include:

(1) Maintaining an accounting system in accordance with the Charter, this code, applicable state and federal statutes and generally accepted accounting principles;

(2) Investing idle City funds;

(3) Long-term financial planning;

(4) Utility billing administration; and

(5) Uniform City Income Tax Ordinance administration.

(6) Oversight of solid waste collection and billing;

(7) Managing activities of the office of the City Assessor.

(B) The office of the City Treasurer shall be headed by the City Treasurer, who shall be responsible for the administration and performance of its functions. The City Treasurer also shall:

(1) Disburse City funds from the treasury pursuant to appropriations made by the City Commission and in conformance with applicable City administrative regulations; and

(2) Serve as or designate a deputy to serve as treasurer of all City authorities, boards, or commissions, except as otherwise provided by law; and

(3) Administer the receipt of payments to the city, and when any check, draft or order presented to the city for payment is dishonored for any reason, the bank fee or charge imposed upon the city for the dishonored instrument shall be charged to the maker of the dishonored check, draft or order. ('88 Code, Title I, Ch. 2, § 1.47) (Ord. 283-3-90, passed 3-19-90; Am. Ord. 284-3-90, passed 3-19-90; Am. Ord. 452-9-99, passed 9-20-99; Am. Ord. 728-08-18, passed 8-6-18)

§ 32.07 OFFICE OF THE CITY ATTORNEY.

(A) The office of the City Attorney includes those functions and responsibilities prescribed in the City Charter, this code and those imposed by state or federal law.

(B) The office of the City Attorney shall be headed by the City Attorney, who shall be responsible for the administration and performance of its functions.

('88 Code, Title I, Ch. 2, § 1.48) (Ord. 281-3-90, passed 3-19-90)

Cross-reference:

Legal counsel to Downtown Development Authority Board, see § 33.

§ 32.08 OFFICE OF THE CITY ASSESSOR.

(A) The office of the City Assessor includes all those functions and responsibilities prescribed in the City Charter, this code and those imposed by state law.

(B) The office of the City Assessor shall be headed by a Department Head appointed by the City Commission, who shall be responsible for the administration and performance of its functions.

('88 Code, Title I, Ch. 2, § 1.49) (Ord. 281-3-90, passed -19-90; Am. Ord. 452-9-99, passed 9-20-99)

DEPARTMENT OF PUBLIC SAFETY

§ 32.15 DEPARTMENT OF PUBLIC SAFETY.

(A) The Department of Public Safety includes the following functions and responsibilities:

(1) Enforcing the laws of the City and, when authorized, the laws of the state governing crimes and criminal activity, the prevention of fires, the storage and use of explosives and flammables, the maintenance of fire alarm systems, both automatic and private, all fire extinguishing equipment, the maintenance and use of fire escapes, the maintenance of fire protection equipment, the elimination of fire hazards, and the maintenance and adequacy of fire exits from places in which people work or congregate;

(2) Operating patrol units for the maintenance, protection, and promotion of public health, safety, and general welfare;

(3) Preventing crime;

(4) Records and property management administration, except as otherwise provided by law;

(5) Investigating crimes, civil infractions, and the origin, cause, and circumstances of all fires, and preparing evidence for the prosecution of criminal cases and civil infractions under state statutes and City ordinances; and

(6) Such regulatory inspection activities as may be delegated by this code or the City Manager.

(B) The minimum employment standards for law enforcement officers as established and adopted by the Michigan Law Enforcement Officers Training Council in accordance with Act No. 203, Public Acts of 1965, as amended, are hereby adopted.

(C) The Department of Public Safety may be headed by the Director of Public Safety as a combination of the administrative offices of Chief of Police and Chief of Fire, or the Department of Public Safety may be headed by the Chief of Police and the Chief of Fire. The Director or the Chief of Police or Chief of Fire shall be selected on the basis of executive and administrative qualifications with special reference to training and experience and without regard to political or religious preferences. The Chiefs of Police and Fire or the Director of Public Safety shall be responsible for the administration and performance of the Department's functions. ('88 Code, Title I, Ch. 2, § 1.55) (Ord. 272-5-89, passed 5-15-89; Am. Ord. 276-8-89, passed 8-14-89; Am. Ord. 280-3-90, passed 3-19-90; Am. Ord. 282-3-90, passed 3-19-90; Am. Ord. 376-2-95, passed 2-20-95; Am. Ord. 416-2-97, passed 2-17-97; Am. Ord. 756-02-20, passed 2-17-20)

Editor's note: Ord. 282-3-90 amends § 1.55 of Title I, Ch. 2 of the '88 Code and, by intent, renumbered it as § 1.60.

DEPARTMENT OF PUBLIC WORKS

§ 32.20 DEPARTMENT OF PUBLIC WORKS.

(A) The Department of Public Works includes the following functions and responsibilities:

(1) Maintaining and repairing infrastructure owned by the City, including but not limited to roadways, sidewalks, curbs and gutters and the water distribution, stormwater collection, and wastewater collection systems and appurtenances;

(2) Installing and maintaining facilities in and along the right-of-way of and within the City, including but not limited to traffic signs and signals, directional signs, and street name signs;

(3) Operating a central garage and repairing, maintaining, and housing City-owned vehicles and equipment;

(4) Operating and maintaining City-owned parks, playgrounds, and swimming pool;

(5) Operating City-sponsored recreation program;

(6) Planting and maintaining trees and other vegetation on rights-of-way and property owned by the City;

(7) Maintaining buildings and grounds owned by the City, except as provided for by the City Charter or this code;

(8) Any other functions and responsibilities which may be assigned to this department by the City code or the City Manager.

(B) The Department of Public Works shall be headed by the Director of Public Works, who shall be responsible for the administration and performance of its functions. The Director shall be selected on the basis of executive and administrative qualifications with special reference to training and experience and without regard to political or religious preferences. ('88 Code, Title I, Ch. 2, § 1.63) (Ord. 280-3-90, passed 3-19-90; Am. Ord. 452-9-99, passed 9-20-99)

Cross-reference:

Cemetery, see Charter, Ch. XVII

Leasing City property, see Charter § 13.4

Municipal utilities, see Charter, Ch. XII

Parks and recreation, see Charter, Ch. XVI

Public works, see Charter §§ 13.1 and 13.2

Use of street by utility, see Charter § 13.10

**DEPARTMENT OF
COMMUNITY DEVELOPMENT**

§ 32.40 DEPARTMENT OF COMMUNITY DEVELOPMENT.

(A) The Department of Community Development includes the following functions and responsibilities:

(1) Providing technical support to the City Commission in matters pertaining to planning, zoning, building, and community development, and other specific subjects as directed by the City Commission or City Manager.

(2) Providing technical support to the Planning Commission and Zoning Board of Appeals.

(3) Administering the zoning ordinance.

(4) Administering the City's building, housing, and subdivision regulations and any other ancillary or related portions of the City Code as assigned by the City Manager.

(5) Maintaining and updating the plans and regulations administered by the Department, and others at the direction of the City Manager.

(6) Conducting building, zoning, and other regulatory inspections as required by the City Code or the City Manager.

(7) Discovering and pursuing grants and other funding opportunities for the City.

(8) Providing information to the general public on the subjects of planning, zoning, subdivision regulations, and building codes within the functions of the Department.

(B) The Department shall be headed by the Director of Community Development, who shall be responsible for the administration and performance of its functions. The Director shall be appointed by the City Manager.

(Ord. 378-2-95, passed 2-20-95; Am. Ord. 655-1-13, passed 1-22-13; Am. Ord. 762-07-20, passed 7-20-20)

**DEPARTMENT OF ENGINEERING AND
MUNICIPAL UTILITIES**

§ 32.60 DEPARTMENT OF ENGINEERING AND MUNICIPAL UTILITIES.

(A) The Department of Engineering and Municipal Utilities includes the following functions and responsibilities:

(1) Surveying and mapping any public utility or property owned by the City;

(2) Inspecting construction and major maintenance work on any City-owned facility, utility, improvement or property;

(3) Pumping, purifying, and filtering water supplied to the distribution system and elevate water storage tanks associated with the system;

(4) Maintaining and operating the wastewater plant and the lift, metering, and sampling stations associated with the collection system; and

(5) Any other functions and responsibilities which may be assigned to this department by the City code or the City Manager.

(B) The Department of Engineering and Municipal Utilities shall be headed by the City Engineering/Utility Director, who shall be responsible for the administration and performance of its functions.

(Ord. 452-9-99, passed 9-20-99)

CHAPTER 33: CITY BOARDS AND COMMISSIONS

Section

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BOARD OF HEALTH

§ 33.01 BOARD OF HEALTH.

The City Commission shall constitute the Board of Health of the City and it shall possess all powers, privileges and immunities granted to boards of health by statute.
(’88 Code, Title I, Ch. 5, § 1.186)

CITY PLANNING COMMISSION

§ 33.10 CHARTER PROVISIONS.

Chapter XIV of the City Charter sets forth provisions relevant to the City Planning Commission.
(Am. Ord. 655-1-13, passed 1-22-13)

§ 33.11 CONTRACTS FOR SERVICES.

The City Planning Commission may contract with City planners, engineers, architects, and other consultants for such specialized services as it may require. In addition, the services of regular city employees may be obtained as found necessary for its work; provided, however, that the Planning Commission shall not expend any funds or enter into any contracts or agreements for expenditures in excess of amounts appropriated for such purpose by the City Commission. The City Commission may appropriate such funds for City planning as it may deem advisable.
(’88 Code, Title I, Ch. 5, § 1.180) (Am. Ord. 655-1-13, passed 1-22-13)

§ 33.12 REPORTS AND RECOMMENDATIONS.

The City Planning Commission shall make reports and recommendations to the City Commission, provided, however, that such recommendations shall be advisory only and not binding upon the City Commission. ('88 Code, Title I, Ch. 5, § 1.182) (Am. Ord. 655-1-13, passed 1-22-13)

LIBRARY BOARD**§ 33.25 LIBRARY BOARD.**

Chapter XV of the City Charter sets forth provisions relevant to the Library Board and the Big Rapids Community Library.

PARK AND RECREATION BOARD**§ 33.35 PARK AND RECREATION BOARD.**

Chapter XVI of the City Charter sets forth provisions relevant to the Park and Recreation Board.

ASSESSMENT BOARD OF REVIEW**§ 33.45 ASSESSMENT BOARD OF REVIEW.**

Chapter IX of the City Charter sets forth provisions relevant to the Assessment Board of Review.

HOUSING COMMISSION**§ 33.55 HOUSING COMMISSION.**

(A) *Purpose.* Insanitary and unsafe inhabited dwelling accommodations exist in the City. There is a shortage of safe and sanitary dwelling accommodations in the City available to persons who lack the amount of income that is necessary to enable them, without financial assistance, to live in decent,

safe and sanitary dwellings without over-crowding. Hence it is for the public interest that a Housing Commission is created. ('88 Code, Title I, Ch. 5, § 1.216)

(B) *Commission continued.* Pursuant to Public Act No. 18 of the Extra Session of 1933, as amended, the Housing Commission created in and for the City is hereby continued. ('88 Code, Title I, Ch. 5, § 1.217)

§ 33.56 POWERS.

(A) The Housing Commission shall have and exercise all of the powers available to the City which can be held and exercised by the Housing Commission pursuant to MCL 123.651 et seq.

(B) The Housing Commission can acquire, hold, develop, demolish, refurbish, manage, operate, finance, mortgage, encumber, and sell real property for the purpose of providing safe, sanitary, and affordable housing. The Housing Commission can act in its own name, or in the name of one or more profit or nonprofit corporations formed for these purposes.

(C) The Housing Commission can exercise all of its powers over other uses of real property which are incidental to or associated with the overall purpose of providing safe, sanitary and affordable housing, including but not limited to the acquisition, management and operation of real property with mixed residential and commercial facilities and uses.

(D) The Housing Commission is authorized to borrow, finance, and acquire funds in its own name, and through one or more profit or nonprofit corporations formed for purposes specified in this section or MCL 123.651 et seq. The Housing Commission is authorized to act as a borrower according to MCL 123.651 et seq. (Ord. 443-2-99, passed 2-4-99)

DOWNTOWN DEVELOPMENT AUTHORITY**§ 33.65 ADOPTION OF PUBLIC ACT BY REFERENCE.**

(A) A Downtown Development Authority is hereby created and established pursuant to the terms and provisions of Michigan Public Act 197 of 1975, being MCL §§ 125.1651 to 165.1680., which Act is adopted by reference thereto by the City of Big

Rapids as Title "BIG RAPIDS DOWNTOWN DEVELOPMENT AUTHORITY" of the City Code, as herein modified. ('88 Code, Title I, Ch. 9, § 1.301)

(B) *References in the act.* Reference in Public Act 197 of 1975 to "chief executive officer" shall mean the Mayor of the City of Big Rapids. References to the "governing body of a municipality" shall mean the City Commission of the City of Big Rapids. References to "municipality" shall mean the City of Big Rapids. ('88 Code, Title I, Ch. 9, § 1.302) (Ord. 209-8-85, passed 8-5-85)

Cross-reference:

Downtown Development Authority Development Plan and Tax Increment Financing Plan, see §§ 34.35 and 34.36

§ 33.66 BOUNDARIES OF THE DOWNTOWN DISTRICT.

The boundaries of the Downtown District within which the Authority shall exercise its powers are as follows:

North and South State Street on the west;
North and South Warren Avenue on the east;
Pine Street on the North; Linden Street on the south.

('88 Code, Title I, Ch. 9, § 1.303) (Ord. 209-8-85, passed 8-5-85)

§ 33.67 BOND SET FOR DIRECTOR OF BOARD.

The Board, which is the governing body of the Big Rapids Downtown Development Authority, shall have a Director as provided by the Act, and the Director shall furnish bond, by posting a bond in the penal sum of \$1,000 under the provisions of the Act, being section 5 therein.

('88 Code, Title I, Ch. 9, § 1.304) (Ord. 209-8-85, passed 8-5-85)

§ 33.68 BOARD'S DIRECTOR REPORT TO CITY COMMISSION.

The Board's Director shall render to the Board and to the City Commission regular reports covering the activities and financial condition of the Authority, which reports shall be made at least quarterly during the first year of operation of the Authority and at least annually every year thereafter, unless more frequent reports are requested by the Board or City Commission.

('88 Code, Title I, Ch. 9, § 1.305) (Ord. 209-8-85, passed 8-5-85)

§ 33.69 BOARD'S ATTORNEY.

The Board, when requiring legal counsel, may seek the services available from the City Attorney, or any other attorney.

('88 Code, Title I, Ch. 9, § 1.306) (Ord. 209-8-85, passed 8-5-85)

DIAL-A-RIDE LOCAL ADVISORY COUNCIL

§ 33.70 PURPOSE AND ORGANIZATION OF DIAL-A-RIDE LOCAL ADVISORY COUNCIL.

(A) The Council was formed for the primary purpose of acting as a local advisory council as described in MCL 247.660e(18). For the City to act as an "eligible governmental agency" that receives financial support from the State's comprehensive transportation fund for providing public transportation services including, but not limited to, specialized services and demand actuated services, the City must submit a plan to the state transportation department describing the service to be provided by the demand actuated services, to persons 65 years of age or older and handicappers within the applicable service area, and the Council shall review and comment on the City's plan before its submission to the department.

(B) The Council's secondary purpose shall be to monitor and review the City's actual delivery of demand actuated services to persons 65 years of age or older and handicappers, and to recommend methods or actions by which the services can be improved. The Council shall provide advisory recommendations to the City Commission on operational matters, including but not limited to fees, service area, service contracts, and operational policies.

(C) The Council shall be organized with not less than 50% of its membership representing persons 65 years of age or older and handicappers within the service area subject to the plan.

(D) The Council shall be composed and structured in such a manner so as to facilitate an independent objective assessment of the City's MCL 247.660e(18) plan by persons in the service area.

(E) The Council shall consist of not fewer than three members.

(F) Council members shall not be employees of the City, and shall not be members of the City Commission or any executive committee of the City.

(G) The City shall maintain a list of Council members and their affiliations and shall identify the members who are handicappers, seniors, and representatives of handicappers or seniors.
(Ord. 431-1-98, passed 1-5-98)

§ 33.71 APPOINTMENT OF COUNCIL MEMBERS.

The Council shall consist of five members who shall be nominated by the Mayor and approved by the City Commission, except the area agency on aging shall approve at least one member or the equivalent of 12% of the membership of the Council.
(Ord. 431-1-98, passed 1-5-98)

§ 33.72 TERM OF OFFICE.

Terms of office for Council members shall begin on the first Monday in April and continue for three years. Terms shall be staggered, with the initial terms established after adoption of this ordinance being specified at the time of appointment as one, two, or three years.
(Ord. 431-1-98, passed 1-5-98; Am. Ord. 654-1-13, passed 1-22-13)

§ 33.73 MEETINGS.

Regular meetings of the Council shall be held not fewer than four times per year on the second Tuesday in January, April, July, and October, at 1:30 p.m. Regularly scheduled or specially called meetings shall be held at the City Hall, 226 N. Michigan Avenue, Big Rapids or at any other place within the City limits upon proper notification of change of the location. Additional meetings shall be held as deemed appropriate by the Council. A City employee responsible for administering public transportation services shall attend all meetings of the Council, and shall act as a liaison between the Council and the City Commission.
(Ord. 431-1-98, passed 1-5-98; Am. Ord. 599-10-08, passed 10-6-08; Am. Ord. 654-1-13, passed 1-22-13; Am. Ord. 723-05-18, passed 5-21-18)

§ 33.74 REMOVAL FROM OFFICE.

Members of the Council may be removed from the office by the Mayor with the consent of the Commission for misconduct, neglect of duty, or missing three consecutive Council meetings.
(Ord. 431-1-98, passed 1-5-98)

COMPENSATION COMMISSION

§ 33.80 COMMISSION ESTABLISHED - AUTHORITY.

Pursuant to authority granted by MCL 117.5c, the City hereby establishes a Compensation Commission for the purpose of determining the salaries of its elected officials, which are the Mayor and the City Commissioners.
(Ord. 653-1-13, passed 1-7-13)

§ 33.81 NAME.

The Compensation Commission shall be known as the Big Rapids Compensation Commission and its members shall be called Compensation Commissioners.
(Ord. 653-1-13, passed 1-7-13)

§ 33.82 MEMBERSHIP, APPOINTMENT, COMPENSATION.

(A) The Big Rapids Compensation Commission shall be comprised of five members who shall be registered electors of the City of Big Rapids and who shall not be members or employees of any branch of any government or the immediate family of a member or employee of any branch of any government.

(B) Members of the Compensation Commission shall be appointed by the Mayor and shall be confirmed by resolution of the City Commission.

(C) The regular terms for Compensation Commissioners shall be five years. Members of the first Compensation Commission shall be appointed for terms so that one each shall be appointed for initial one, two, three, four and five year terms.

(D) The Mayor shall appoint the first member of the Compensation Commission within 60 days of the effective date of this ordinance. The first member shall take office upon confirmation by the City Commission.

(E) Vacancies occurring in the office of Compensation Commissioner shall be filled by the Mayor and shall be confirmed by the City Commission for the remainder of the unexpired term of the vacancy.

(F) Compensation Commissioners shall not receive compensation for serving as members of the Compensation Commission, but shall be entitled to reimbursement or payment of actual and necessary expenses incurred in the performance of their official duties.

(Ord. 653-1-13, passed 1-7-13)

§ 33.83 MEETINGS OF COMPENSATION COMMISSION.

(A) The Compensation Commission shall meet for at least one and not more than 15 session days in each odd-numbered year, with an organizational meeting on the second Tuesday in May. "Session day" means a calendar day on which the Compensation Commission meets and for which a quorum is present.

(B) The Compensation Commission shall elect a Chairperson from among its members.

(C) The term of office of the Chairperson shall be two years, but shall continue until a successor is elected.

(D) A majority of the members of the Compensation Commission shall constitute a quorum. No action or determination on salaries may be made without an affirmative vote of a majority of Compensation Commissioners appointed and serving.

(E) The Compensation Commission shall make its recommendation on salaries and expense allowances or reimbursement at least 60 days prior to the next City general election.

(F) All business of the Commission shall be conducted at a public meeting in compliance with the Open Meetings Act.

(Ord. 653-1-13, passed 1-7-13; Am. Ord. 733-03-19, passed 3-4-19)

§ 33.84 SALARY OF ELECTED OFFICIALS.

(A) The Big Rapids Compensation Commission shall determine the salary and expense allowances or reimbursement of each elected official of the City of Big Rapids and shall make its determination within 90 calendar days of its first meeting in each odd-numbered year.

(B) The determination of salary shall become the salary of each elected official unless the City Commission, by at least four votes of the members elected and serving, adopts a resolution rejecting the determination.

(C) The effective date of the determination of salary shall be 30 days following the filing of the determination of salary with the City Clerk unless rejected under subsection (B) hereof. If the determination is rejected by the City Commission within 30 days of filing with the City Clerk, the existing salary of each elected official shall continue.

(D) The expense allowance or reimbursement allowed by a determination and paid to elected officials shall be for expenses incurred in the course of City business and shall be accounted for by the elected official to the City.

(Ord. 653-1-13, passed 1-7-13)

§ 33.85 FREEDOM OF INFORMATION.

Any writing prepared, owned, used or retained by, or in possession of, the Compensation Commission in the performance of an official function shall be made available to the public in compliance with Act 42 of the Public Acts of 1976, being MCL 15.231 to 15.246.

(Ord. 653-1-13, passed 1-7-13)

§ 33.86 IMPLEMENTATION.

The governing body shall implement this chapter by resolution. After one year following the effective date of this chapter, the procedure for establishing the compensation of elected officials may be changed by Charter amendment or revision.

(Ord. 653-1-13, passed 1-7-13)

§ 33.87 REFERENDUM OF ORDINANCE.

Not more than 60 days after the effective date of this chapter, a petition for referendum on the chapter may be filed pursuant to the procedure provided in the City Charter for referendums on ordinances. The election shall be conducted in the same manner as an election on a Charter amendment. When a petition for referendum is filed, a determination of the Compensation Commission shall not be effective until the ordinance has been approved by the electors.

(Ord. 653-1-13, passed 1-7-13)

CHAPTER 34: TAXATION, FINANCE AND PURCHASES

Section

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Purchases and Contracts

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- 34.24 Small item purchase - under \$2,000
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- 34.45 Contracts; power of City Commission
- 34.46 Refusal to execute contract
- 34.47 Contracts filed with City Clerk
- 34.48 Payment to contractors
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- 34.50 Contracts without competitive bidding
- 34.51 Cooperative purchasing
- 34.52 Purchasing service available to other public agencies
- 34.53 Acceptance and inspection of materials
- 34.54 Determination and sale of property

- 34.55 Surplus stock
- 34.56 Gifts and rebates prohibited
- 34.57 Adoption of standards in 49 CFR 18.36; contract supported by federal funds
- 34.58 Purchases for City promotion

Downtown Development Authority Development Plan and Tax Increment Financing Plan

- 34.65 Development Plan and Tax Increment Financing Plan
- 34.66 Findings
- 34.67 Amendment of original plan

Cross-reference:

Borrowing power, see Charter, Ch. X
General finance, budget audit, purchasing, see Charter, Ch. VIII
Special assessments, see Charter, Ch. XI
Tax exemptions for housing projects, 151.50
Taxation, see Charter, Ch. IX

CITY INCOME TAX

§ 34.01 UNIFORM ORDINANCE AND AMENDMENTS ADOPTED.

(A) The Uniform City Income Tax Ordinance prescribed by Act No. 284 of the Public Acts of the State of Michigan of 1964, being Chapter 2 of the Act, is adopted by reference pursuant to the authority contained within Chapter 1, Section 3 of Act No. 284 of the Public Acts of the State of Michigan of 1964 [being MCL 141.501 et seq.] ('88 Code, Title I, Ch. 7, § 1.261)

(B) The City is required to update its Uniform City Income Tax Ordinance to be consistent with the form prescribed by the state statute. Therefore Ord. 292-11-90, which amends the Uniform City Tax Ordinance adopted in division (A) of this section, is adopted by reference.

(C) The Uniform City Income Tax Ordinance as amended will be available in City Hall for inspection and distribution.
 (Ord. 292-11-90, passed 11-19-90)

§ 34.02 DEDUCTION.

Chapter 2, Section 31 of the Uniform City Income Tax Ordinance is amended as permitted by Public Acts of 1970, No. 148, State of Michigan, to provide that for taxable years beginning after December 31, 1969, that an individual taxpayer in computing his taxable income shall be allowed a deduction of a minimum of \$600 for each personal and dependency exemption under the rules for determining exemption and dependent as provided in the Federal Internal Revenue Code.

('88 Code, Title I, Ch. 7, § 1.263)

PURCHASES AND CONTRACTS

§ 34.20 PURPOSE.

The purpose of this subchapter is to provide a procedure for purchasing which allows for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity. Competitive prices for all purchases and public improvements shall be obtained and the purchase made from, or the contract awarded to, the lowest qualified bidder.

(Ord. 657-03-13, passed 3-4-13)

§ 34.21 APPLICATION.

This subchapter applies to procurement of supplies, equipment, service, and construction by the City of Big Rapids. It shall apply to every expenditure of public funds for public purchasing irrespective of its source. When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any mandatory federal law and regulations, which are not reflected in this subchapter. Nothing in this subchapter shall prevent any public agency from complying with the terms and conditions of any grant, or bequest, which are otherwise consistent with law.

(Ord. 657-03-13, passed 3-4-13)

§ 34.22 DEFINITIONS.

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

AREA BIDDER. A vendor or business with an established place of business outside of the City of Big Rapids, but within Mecosta County, who is not in default to the City as described in § 34.41.

CONSTRUCTION. The process of building, altering, repairing, improving or demolishing any City structure or building, or other City improvements of any kind to any City real property.

CONTRACT. All types of City agreements, regardless of what they might be called, for the procurement of supplies, services, or construction.

CONTRACTOR. Any person having a contract with the City.

CONTRACTUAL SERVICES. The rental, repair or maintenance of equipment, machinery, roads and other City-owned property providing for operations and/or services evidenced by a written contract.

INVITATION FOR BIDS. The complete assembly of related documents, whether attached or incorporated by reference, furnished prospective bidders for soliciting sealed bids.

INVOICE. A formal statement or billing submitted by a vendor showing the amount due and the terms of payment for supplies delivered or services rendered.

LOCAL BIDDER/LOCAL VENDOR. A vendor or business with an established place of business within the City of Big Rapids, whereby City income taxes or property taxes are paid, who is not in default to the City as described in § 34.41.

PROCUREMENT. Purchasing, renting, leasing, or otherwise acquiring for monetary consideration any supplies, services or construction items for the City.

PUBLIC IMPROVEMENT. Any enhancement to property or equipment belonging to the City.

PURCHASE ORDER. The document used as notice to initiate and contract purchases. It is the formal notice to a vendor to furnish the supplies or services described in detail.

PURCHASING OFFICER. The City Manager or the person to whom the City Manager delegates the performance of the purchasing function.

QUOTES. Shall be used for purchases equal to or over \$5,000 but less than \$7,500 and shall be prices obtained through an informal method by use of the telephone, written or electronic communication, or personal contact.

REQUEST FOR PROPOSALS (R.F.P.). All documents, whether attached or incorporated by reference, utilized for soliciting proposals and quotations for service.

REQUISITION. The written request form used to inform the Purchasing Officer that goods, services, or materials need to be purchased.

RESPONSIBLE BIDDER. A person who has the capability in all respects to perform fully the contract requirements, fills the contract requirements, and fits the criteria identified under § 34.35, who is not in default to the City as described in § 34.41.

SEALED BIDS. Shall be used for any estimated purchase of \$7,500 or more. Prices from competitors will be submitted secured and sealed in an envelope properly identified.

SERVICES. The furnishing of labor, time or efforts by a person, except that the term does not include the furnishings of labor, time or effort by the City employee, appointed or elected officials, or consultants hired by the City.

SPECIFICATIONS. A written description of needed supplies, equipment or services, setting forth the characteristic of the items and/or services to be purchased and the circumstances under which the purchases will be made.

SUPPLIES. All supplies, materials and equipment.

USING AGENCY. The City Commission or a City department, division, agency, commission, board or other unit of the City government.

VENDOR. A supplier of goods or services, who is not in default to the City as described in § 34.41. (Ord. 657-03-13, passed 3-4-13)

§ 34.23 POWERS AND DUTIES OF PURCHASING OFFICER.

The following shall be the powers and duties of the Purchasing Officer:

(A) Encourage and obtain as full and open competition as possible on all purchases and sales.

(B) Prescribe and maintain such forms as are reasonably necessary to the operation of this subchapter.

(C) Act to procure for the City the highest quality in supplies and contractual service at the least expense to the City. (Ord. 657-03-13, passed 3-4-13)

§ 34.24 SMALL ITEM PURCHASE - UNDER \$2,000.

(A) All items under the price of \$2,000 may be purchased outright in the open market by a department head, or his or her designated representative, when it has been determined by the department head that it is not economically feasible to buy the item in quantities that require the City to purchase the item by competitive quotes or bidding.

(B) The invoice for the purchased items shall be signed by the City employee who made the purchase. This invoice shall then be coded by the department head for proper payment and turned promptly into the Treasurer's Office. (Ord. 657-03-13, passed 3-4-13)

§ 34.25 PURCHASE OF ITEMS EQUAL TO OR OVER \$2,000 BUT LESS THAN \$5,000.

All purchases equal to or over \$2,000 and less than \$5,000 may be purchased in the open market by a department head, or his or her designated representative, when the department head determines it is not economically feasible, nor necessarily appropriate, to buy the items in quantities that require competitive bidding. Such purchases shall be made after the completion of a purchase requisition, which is confirmed as to available funds by the appropriate finance personnel, followed by the processing of a purchase order. (Ord. 657-03-13, passed 3-4-13)

§ 34.26 PURCHASE OF ITEMS EQUAL TO OR OVER \$5,000 BUT LESS THAN \$7,500.

All purchases of supplies, materials, service, or equipment, costing \$5,000 or over, but less than \$7,500 may be made in the open market after obtaining at least three competitive quotes. Quotes shall be solicited by telephone or direct mail request to prospective vendors or through personal contact. The names of each vendor submitting a quotation and the date and amount of each quotation shall be recorded and available for public inspection. The purchase shall be awarded to the lowest and best

bidder. A purchase requisition containing the names of the vendors submitting quotes shall be completed. The appropriate finance personnel shall determine that an appropriation has been approved by the City Commission in the annual budget, or that funds are available through proper fund adjustments. The purchase requisition will then be forwarded to the Purchasing Department for the processing of a purchase order.

(Ord. 657-03-13, passed 3-4-13)

§ 34.27 PURCHASES OF \$7,500 AND OVER.

(A) Any expenditure or contract obligating the City in an amount of \$7,500 or more must be made through formal sealed bids, approved and awarded by the City Commission.

(B) The Purchasing Officer shall provide for such procurement through competitive sealed bids as follows:

(1) A notice soliciting sealed competitive bids shall be published in a newspaper in general circulation in the City of Big Rapids or on the City's website at least ten days prior to the final date for submission of bids. The newspaper notice may be in detail or may refer the bidder to the City's website for the bidding specifications, which shall briefly state the following: the specifications of the supplies, materials, service or equipment requested, the amount of any required surety to be submitted with the bid or contract, the time and place for filing and opening of bids, and the general terms and conditions of the award of the contract.

(2) The Purchasing Officer shall also solicit sealed bids from all qualified prospective bidders known to the City by sending each a copy of the request for bid proposal or newspaper notice. This solicitation will be derived from the City's vendor list. It is the obligation of the vendors to submit their names and wares for the vendor's list. The vendors will be notified by either U.S. mail or e-mail.

(3) The Commission shall reserve the right to reject any and all bids submitted and such right to rejection shall be included with any notice of request for bids.

(4) The department heads shall review proposals received and provide necessary recommendations to the City Commission.

(Ord. 657-03-13, passed 3-4-13)

§ 34.28 REQUISITIONS.

The requisition shall be used for open market purchases equal to or over \$2,000. The requisition is completed by the requesting department head, or his or her designated representative, enough time in advance to allow for the orderly processing of a purchase order. It is then forwarded to the appropriate financial personnel for confirmation of available funds or necessary fund adjustments. The original copy of the requisition is submitted to the Purchasing Department for the issuance of a purchase order.

(Ord. 657-03-13, passed 3-4-13)

§ 34.29 PURCHASE ORDERS.

(A) A purchase order is the instrument used to initiate and contract purchases. It is a legal contract between buyer and seller. It is used to introduce a greater measure of responsibility and accountability over implementation of the annual budget and improves control of expenditures so that budget amounts are not exceeded. It is a formal notice to a vendor to furnish supplies or services described in detail.

(B) A City purchase order shall be initiated by a departmental purchase requisition or City Commission action and prepared by personnel in the Purchasing Department. It will be forwarded to the vendor.

(Ord. 657-03-13, passed 3-4-13)

§ 34.30 SUBDIVIDING CONTRACTS OR PURCHASES.

No contract or purchase shall be divided for the purpose of circumventing the dollar limitation of any section of this subchapter.

(Ord. 657-03-13, passed 3-4-13)

§ 34.31 PURCHASES FROM PETTY CASH.

(A) The purpose of petty cash is to provide funds for incidental purchases or items necessary for immediate and urgent projects. Petty cash is not to be used to circumvent the purchasing procedure.

(B) Purchases from petty cash shall be monitored by the City Treasurer and excessive use or misuse shall be reported directly to the City Manager.

(Ord. 657-03-13, passed 3-4-13)

§ 34.32 SEALED BIDS.

All sealed bids shall be securely sealed in an envelope, properly identified and submitted to the City Clerk's office, and if required, shall be accompanied by security in the form of cashier's check, certified check, cash or bond in such amount as may be prescribed in the public notice inviting bids. Bids advertised as sealed bids will not be accepted by way of fax or e-mail.
(Ord. 657-03-13, passed 3-4-13)

§ 34.33 REQUEST FOR QUALIFICATIONS.

When engineering, architectural or professional services are being solicited, the City may request professional qualifications prior to the request for proposals. The professional qualifications will be submitted in sealed envelopes at the required time and reviewed by staff. Those firms which have been determined to meet qualifications will be forwarded a request for proposals.
(Ord. 657-03-13, passed 3-4-13)

§ 34.34 REQUEST FOR PROPOSALS.

The City, or its representative of a project, shall prepare the request for proposals for projects and services to be bid. The request for proposals shall contain all documents necessary for the City to determine a successful bidder. Those documents shall contain, but shall not be limited to the following:

(A) Notice to bidder announcing the invitation to submit bids;

(B) Detailed specifications outlining the scope of the work;

(C) Bid proposal form, which provides for a breakdown of the costs to complete the project or services;

(D) Indemnification form;

(E) Notice of insurance requirements;

(F) Legal status of bidder;

(G) Equal employment opportunity statement;

(H) Notification of City income tax;

(I) Contractor's checklist; and

(J) Proposed agreement for the successful bidder.
(Ord. 657-03-13, passed 3-4-13)

§ 34.35 CRITERIA OF RESPONSIBLE BIDDER.

Whenever satisfactory quotes or bids are received, the purchase or contract shall be awarded to the lowest and best bidder. Purchases shall be made from the lowest competent bidder whose bid is most advantageous to the City. The City has the right to accept or reject any or all bids it deems necessary. In determining which bid is most advantageous and/or competent, the City Manager and City Commission, upon the advice of the Purchasing Officer or department head, shall consider in addition to price:

(A) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(B) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

(C) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(D) The quality of performance of previous contracts or services of the bidder;

(E) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;

(F) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(G) The quality, availability and adaptability of the supplies or contractual services to the particular use required;

(H) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

(I) The number and scope of any additional, limiting, or qualifying conditions attached to the bid by the bidder;

(J) The failure of a bidder to promptly supply information in connection with an inquiry from the City Manager or Purchasing Officer with respect to any of the above enumerated provisions may be grounds to disqualify such bidder; and

(K) Maintenance costs, duration of contract, warranty length and other anticipated costs.
(Ord. 657-03-13, passed 3-4-13)

§ 34.36 CONTRACT NOT AWARDED TO LOWEST BIDDER.

(A) Whenever satisfactory bids are received, the contract shall be awarded to the lowest and best bidder, subject to approval of the contract and bond by the Commission. When the award is not given to the lowest bidder, a full and complete statement of the reasons for awarding the bid to a higher bidder shall be prepared by the requesting department head and/or Purchasing Officer and filed with other papers relating to the transaction.

(B) Bids received after the due date and time shall not be considered or reported as participating bids.
(Ord. 657-03-13, passed 3-4-13)

§ 34.37 PREFERENCE FOR LOCAL AND AREA BIDDERS.

(A) Public policy. The City has a significant interest in encouraging the creation of employment opportunities for its residents and for businesses located within the City. As a purchaser of goods and services, the City will benefit from expanded job and business opportunities for its residents and businesses through additional revenues generated by City purchases. It is in the interest of the City of Big Rapids and its residents to define and quantify a preference for local eligible bidders who have direct physical and economic relationships with the City of Big Rapids.

(B) The City also values the growth and economic health of those businesses that are located outside the City, but still in Mecosta County. It is in the interest of the City to define and quantify a preference for area bidders who have an economic relationship with Mecosta County.

(C) This preference for local bidders and area bidders shall not apply to purchases or projects in which restricted state or federal grant funds are utilized and the funding conditions prohibit such preferences.

(1) Local bidders.

(a) *Definition.* **LOCAL BIDDER** shall mean a bidder whose business is located within the City of Big Rapids, whereby there is a physical and economic relationship with the City demonstrated by

the payment of City income taxes on net profits, or the payment of City property taxes on a plant, office, or other developed site and equipment as is ordinarily required for the performance of the contract or service.

(b) Preference for local bidders.

1. If the City receives a bid between \$1,000 and \$20,000 from a local bidder and the amount of the bid is no more than 5% greater than that of a non-local bidder in an amount not to exceed \$1,000, then the City Commission in its discretion may consider the bids equal, and can award the bid to the local bidder based on local preference.

2. On amounts between \$20,000 and \$500,000, the following local preference percentage shall apply:

<i>Amount</i>	<i>Local bidder preference</i>
\$20,000 to \$100,000	4%
\$100,001 to \$500,000	3%

(2) Area bidders.

(a) *Definition.* **AREA BIDDER** shall mean a bidder, vendor or business with an established place of business outside of the City of Big Rapids, but within Mecosta County.

(b) Preference for area bidders.

1. If the City receives a bid between \$1,000 and \$20,000 from an area bidder and the amount of the bid is no more than 2.5% greater than that of a non-area bidder in an amount not to exceed \$1,000, then the City Commission in its discretion may consider the bids equal, and can award the bid to the area bidder based on local preference.

2. On amounts between \$20,000 and \$500,000, the following area preference percentage shall apply:

<i>Amount</i>	<i>Area bidder preference</i>
\$20,000 to \$100,000	2%
\$100,001 to \$500,000	1.5%

(3) *Discretion.* The use and application of the local and area preference shall be in the sole

discretion of the City Commission. No local or area bidder can compel the City Commission to exercise its discretion and apply the local preference to a particular bid.

(4) *Vendor list.* Where possible, requests, quotes and/or bids from local and area vendors shall be solicited as a part of any procurement process. A list of local and area vendors and their wares shall be maintained in the City Treasurer's office. It is the obligation of the vendors to submit their names and wares for the vendor's list.

(Ord. 657-03-13, passed 3-4-13)

§ 34.38 BID SECURITIES AND BONDS.

When deemed necessary by the City Manager, bid securities and/or performance bonds shall be required and prescribed in the public notices inviting bids. Bid securities and performance bonds shall be required for all competitive sealed bids for construction contracts when the cost is estimated to equal or exceed \$100,000.

(A) Bid security.

(1) A bid security shall be a bond provided by a security company authorized to do business in the State of Michigan, or the equivalent in cash, or otherwise supplied in a form satisfactory to the City. Nothing contained herein shall prevent the requirement of such security on any contract under \$100,000, when in the determination of the City Manager, circumstances warrant bid security.

(2) Bid security shall be in an amount equal to, but not less than, 5% of the amount of the bid.

(3) When the invitation for bids requires a bid security, noncompliance requires that the bid be rejected, unless it is determined that the bid fails to comply in a non-substantial manner with bid security requirement.

(B) Performance bonds.

(1) When a performance bond is required, it shall be delivered to the City at the time of or before the signing of the contract by the Mayor.

(2) A performance bond, satisfactory to the City and executed by a surety company authorized to do business in the State of Michigan, or otherwise secured in a manner satisfactory to the City shall be in an amount equal to 100% of the price specified in the contract.

(3) A payment bond satisfactory to the City and executed by a surety authorized to do business in the State of Michigan, or otherwise secured in a manner satisfactory to the City of Big Rapids, for the protection of all persons supplying labor and materials to the contractor or its subcontractors for the performance of the work provided in the contract shall be required. The bond shall be in an equal amount to 100% of the price specified in the contract

(C) *Failure of bidder.* A successful bidder shall forfeit any bid deposit required upon failure on the bidder's part to enter into a contract within the time specified after the award.

(D) *Reduction of bond amount.* Such bonds may be reduced in value proportionate to the completed work during the construction cycle of the project upon written approval of the City Manager.
(Ord. 657-03-13, passed 3-4-13)

§ 34.39 BID OPENING PROCEDURE.

(A) Bids shall be sealed and submitted to the Office of the City Clerk. Each sealed envelope shall identify which bid is enclosed in the envelope. If required, the bid shall be accompanied by security in the form of cashier's check, certified check, cash or bond in such amount as prescribed in the public notice inviting bids.

(B) All bids shall be opened in public on the date, time and place stated in the public notices in the presence of the City Treasurer, the City Manager, or a designated representative. Each bid, together with the name of the bidder, shall be recorded and the tabulation of all bids received shall be available for public inspection in the City Treasurer's office. Any bid received after the exact time it is due, as advertised in the public notice, will not be opened or considered.

(Ord. 657-03-13, passed 3-4-13)

§ 34.40 REJECTION OF BIDS.

An invitation for bids may be canceled or any and all bids, proposals or quotations may be rejected in whole or in part as specified in the invitation for bids when such cancellation or rejection is determined by the City Manager or City Commission to be in the best interest of the City.

(Ord. 657-03-13, passed 3-4-13)

§ 34.41 BIDDERS IN DEFAULT TO THE CITY.

The City Commission shall not accept the bid of a contractor or bidder who is in default on the payment of taxes, licenses or other monies due the City nor shall the City Commission award any contract to a person who is in default on the payment of taxes, licenses or other monies due the City. (Ord. 657-03-13, passed 3-4-13)

§ 34.42 APPROPRIATIONS SUFFICIENCY.

Prior to any purchase, it shall be determined by the department head or the appropriate finance personnel, that sufficient budget appropriations exist to cover any or all expenditures. Any recommendation memo to the City Manager or City Commission by the department head shall include this information along with the appropriate account number from which funds will be expended. (Ord. 657-03-13, passed 3-4-13)

§ 34.43 EMERGENCY PURCHASES.

(A) In event of an apparent emergency which poses threats to the public health, safety, or welfare of the City or its citizens and requires immediate purchase of supplies or contractual services, the City Commission may temporarily suspend one or more of the provisions listed in § 8.10 of the City Charter pertaining to sealed bids and the purchase of items or contracts exceeding \$7,500. The City Manager may be authorized to purchase on the open market, at the lowest obtainable price, any necessary contractual service or supplies, in declaring an emergency under this section, the Commission shall:

- (1) Define the emergency.
- (2) State the anticipated term of the emergency, which shall not exceed 120 days.
- (3) Approve the suspension of the affirmative vote of not less than four City Commissioners.

(B) A full report of the circumstances of an emergency purchase will be filed with the City Commission by the City Manager as soon as possible and within ten days after such purchase and shall be entered in the Commission minutes. Emergency purchases under \$7,500 may be purchased over the telephone followed by a purchase order. (Ord. 657-03-13, passed 3-4-13)

§ 34.44 PUBLIC IMPROVEMENTS.

(A) No public improvements requiring an engineer's seal shall be contracted for or commenced until estimates, drawings, profiles and specifications, where appropriate, have been submitted by the engineer. State law requires an engineer's seal for all construction of public works exceeding \$15,000.

(B) The City Commission may authorize the making of public improvements or the performing of any other City work by any City department or agency without competitive bidding. (Ord. 657-03-13, passed 3-4-13)

§ 34.45 CONTRACTS; POWER OF CITY COMMISSION.

Contracts shall be drawn or approved to form by the City Attorney and certified as to sufficiency of funds by the officer or staff person charged with the responsibility of maintaining the City accounting system or checking for sufficient appropriations. The letting and making of such contracts are hereby vested in the City Commission, which in its discretion shall have the power to reject any or all bids. An individual agreement of employment shall not be deemed a contract requiring an opinion by the City Attorney or certification by the City Clerk. (Ord. 657-03-13, passed 3-4-13)

§ 34.46 REFUSAL TO EXECUTE CONTRACT.

Each contract submitted to the City Commission for approval shall be accompanied by a tabulation of all bids received. All bids, deposits of cash, certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to execute the contract after its award, the deposit accompanying the bid shall be forfeited and the City Commission may award the contract to the next lowest and best bidder or re-advertise for new bids. (Ord. 657-03-13, passed 3-4-13)

§ 34.47 CONTRACTS FILED WITH CITY CLERK.

A copy of each contract shall be filed with the City Clerk. At the time the contract is executed by him, the contractor shall execute a surety company bond to the City, conditioned upon the faithful performance of the contract and saving the City harmless for all losses or damage caused by any person or property by reason of any carelessness or

negligence by the contractor and from all expense of inspection, engineering and otherwise, caused by the delay in the completion of any improvement and further conditioned to pay all laborers, mechanics, subcontractors and material men as well as all just debts and demands incurred in the performance of such work.

(Ord. 657-03-13, passed 3-4-13)

§ 34.48 PAYMENT TO CONTRACTORS.

No compensation shall be paid to any contractor except in accordance with the terms of the contract.
(Ord. 657-03-13, passed 3-4-13)

§ 34.49 EXTRA COMPENSATION.

Any accumulative extra compensation and/or change order pertaining to a contract shall be made in accordance with the threshold levels identified within §§ 34.24 through 34.26. If such cumulative extra compensation shall equal or exceed \$7,500, it may be granted or authorized only with City Commission approval.

(Ord. 657-03-13, passed 3-4-13)

§ 34.50 CONTRACTS WITHOUT COMPETITIVE BIDDING.

The City Commission delegates its authority for contract approval for budgeted City purchases of less than \$5,000. Contracts for these purchases shall be approved by the City Attorney as to form and content and signed by the City Manager and City Treasurer in order to be effective.

(Ord. 657-03-13, passed 3-4-13)

§ 34.51 COOPERATIVE PURCHASING.

The City shall have the authority to join with other units of government, including the State, in cooperative purchasing plans when the best interest of the City would be served thereby, upon approval of the City Commission.

(Ord. 657-03-13, passed 3-4-13)

§ 34.52 PURCHASING SERVICE AVAILABLE TO OTHER PUBLIC AGENCIES.

If, in the opinion of the Purchasing Officer, it is appropriate to enter into cooperative purchasing

agreements, the purchasing service of the City may be made available without charge to any public authority in which the City has an interest.

(Ord. 657-03-13, passed 3-4-13)

§ 34.53 ACCEPTANCE AND INSPECTION OF MATERIALS.

The responsibility for the inspection and acceptance of all materials, supplies and equipment shall rest with the department, division or agency receiving and utilizing the same.

(Ord. 657-03-13, passed 3-4-13)

§ 34.54 DETERMINATION AND SALE OF PROPERTY.

(A) Whenever any City property, real or personal, is no longer required, it may be sold. The Purchasing Officer may sell personal property not exceeding \$2,500 in value for cash after soliciting quotations or competitive bids. Personal property of a value in excess of \$2,500 may be sold after advertising and soliciting competitive bids, with the approval of the City Commission.

(B) Sale of real property by the City shall be made only after review and recommendation by the Planning Commission and a determination by the City Commission that the real property is not required for any existing or intended future public purpose and use of the City. The City Commission may authorize the sale of real property to another government entity without obtaining quotations or competitive bids.

(Ord. 657-03-13, passed 3-4-13)

(1) The City Commission shall determine if any parcel of City owned real property is not required for any existing or intended future public purpose and use of the City, but only after receiving a recommendation from the Planning Commission on any existing or intended future public purpose and use of the real property.

(2) Upon referral by the City Commission, City Manager, or City Planner, the Planning Commission shall conduct a public hearing on any parcel of City owned real property and evaluate whether there is an existing or intended future public purpose and use of the parcel. If the Planning Commission recommends a determination of no existing or intended future public purpose and use of the real property, the Planning Commission shall recommend the sale of the real property.

(3) At a minimum, City staff shall provide to the Planning Commission the following information on any parcel of City owned real property to be evaluated by the Planning Commission regarding any existing or intended future public purpose and use:

(a) Date, terms, and instrument by which the property was acquired.

(b) Restrictions, prohibitions, easements, and encumbrances of record affecting the property.

(c) All known existing and intended public uses of the property.

(d) What the Master Plan provides on or for the property.

(e) The historical character and significance of the real property and/or the structures on it.

(f) Probable market value of property if sold.

(g) Whether the property is buildable or non-buildable.

(4) The City Clerk shall maintain a Surplus Property List with title and environmental information acquired by the City.

(C) The City Commission can authorize by resolution the sale of real property owned by the City by:

(1) A public offering and formal sealed bids,

(2) A public on-line auction and secure bids,

(3) Listing the real property with a real estate agent or agency on the open market on terms and conditions set by the City Commission,

(4) Sale to another governmental entity, with final approval of the terms of any bid or sale by the City Commission.
(Am. Ord. 711-09-17, passed 9-5-17)

§ 34.55 SURPLUS STOCK.

All departments shall submit to the Purchasing Officer, at such times and in such form as the Purchasing Officer shall prescribe, reports showing stocks of all supplies which are no longer used which have become obsolete, worn out or scrapped.

(A) *Sale.* The Purchasing Officer shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade in the same on, new supplies pursuant to provisions of § 34.54 or to conduct an auction for sale of items. Sales under this section shall be made to the highest responsible bidder.

(B) *Transfer.* The Purchasing Officer shall have the authority to transfer surplus stock to other departments.
(Ord. 657-03-13, passed 3-4-13)

§ 34.56 GIFTS AND REBATES PROHIBITED.

City employees involved in purchasing or contracting are prohibited from soliciting or accepting any gift, offer of employment, rebate, money, or costly entertainment from any person, company, firm or corporation to which any purchase or contract might be awarded or is awarded.
(Ord. 657-03-13, passed 3-4-13)

§ 34.57 ADOPTION OF STANDARDS IN 49 CFR 18.36; CONTRACT SUPPORTED BY FEDERAL FUNDS.

(A) The City of Big Rapids adopts this written code of standards of conduct governing the performance of its officers and employees engaged in the award and administration of contracts. No officer, employee, agent, contractor, or subcontractor of the City of Big Rapids shall participate in the selection or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(1) The City officer, employee, agent, contractor or subcontractor;

(2) Any member of his or her immediate family;

(3) His or her partner; or

(4) An organization which employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award. The City's officers, employees, agents, contractors and subcontractors will neither solicit nor accept gratuities, favors, or anything of monetary value from bidders, contractors, potential contractors or parties to sub-agreements on City jobs. An unsolicited gift of nominal intrinsic value shall not be a violation of this section.

(B) A violation of this section may result in disciplinary action against any City officer or employee up to and including discharge from employment or removal from office, depending on the nature and extent of the violation. A violation of this section may result in barring any agent, contractor, or subcontractor from administering, obtaining or performing a City contract, as well as a claim for civil damages for any increased cost incurred by the City as a result of the violation. (Ord. 657-03-13, passed 3-4-13)

§ 34.58 PURCHASES FOR CITY PROMOTION.

The City may, as part of public relations or advertising initiatives on behalf of the City, prepare and donate gift baskets and amenities up to a value of \$250 for such occasions. (Ord. 657-03-13, passed 3-4-13)

DOWNTOWN DEVELOPMENT AUTHORITY DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN

§ 34.65 DEVELOPMENT PLAN AND TAX INCREMENT FINANCING.

The Downtown Development Authority's Development Plan and Tax Increment Financing Plan are hereby approved. The text of both plans are available in the office of the City Clerk. (Ord. 228-1-87, passed 1-28-87)

§ 34.66 FINDINGS.

The City Commission, having recognized that there has been deterioration of property value in the Downtown District and in the Downtown Development Area of the City, and having reviewed the Development Plan and Tax Increment Financing Plan ("the Original Plan") of the Downtown

Development Authority of the City ("the Authority") and the amendments thereto proposed by the Authority and on file at the office of the City Clerk as Exhibit A (the Original Plan and the amendments herein referred to as "the Plan"), and having held a public hearing regarding the Plan, finds as follows:

(A) The Plan constitutes a public purpose and is in the best interests of the City and the residents of the City in general.

(B) The Plan meets the mandatory requirements of Section 17(2) of Act 197 of 1975, as amended ("the Act").

(C) The proposed methods of financing the projects described in the Plan are feasible and the Authority has the ability to arrange the financing necessary to accomplish the projects.

(D) The development described in the Plan is reasonable and necessary to carry out the purposes of the Act.

(E) Any land to be acquired by the Authority or the City under the Plan is reasonably necessary to carry out the purposes of the Act in an efficient and economically satisfactory manner.

(F) The Plan is in reasonable accord with the Master Plan of the City.

(G) Services such as fire and police protection and utilities will be adequate to serve the Downtown Development Area after development as provided in the Plan.

(H) Any changes in zoning, streets, street levels, intersections and utilities contemplated in the Plan are reasonably necessary for the development of the Downtown District and for the City. (Ord. 277-9-89, passed 9-5-89)

Cross-reference:

Downtown Development Authority, see §§ 33.100 through 33.104

§ 34.67 AMENDMENT OF ORIGINAL PLAN.

The Original Plan is amended to add the sections described in Exhibit A and to extend its duration to nine years, or until the bonds described in the Plan have been paid in full, whichever occurs first. (Ord. 277-9-89, passed 9-5-89)

CHAPTER 35: PUBLIC IMPROVEMENTS; SPECIAL ASSESSMENTS

Section

- 35.01 Special assessments for public improvements
- 35.02 Petitions for public improvements
- 35.03 Estimates and diagrams to be prepared
- 35.04 Cost of public improvements
- 35.05 Time of special assessments
- 35.06 Pro rata special assessments
- 35.07 Duties of assessor
- 35.08 Method of assessment
- 35.09 Notice and hearing
- 35.10 Form of notice
- 35.11 Failure to give notice
- 35.12 Commission review
- 35.13 Nature of assessment
- 35.14 Collection and payment
- 35.15 Apportionment when land is divided
- 35.16 Insufficient or excessive special assessments
- 35.17 Irregular, invalid, or void assessments
- 35.18 Duties of city treasurer and assessor
- 35.19 Suits for collection
- 35.20 Irregularities in assessment no bar to collection

§ 35.01 SPECIAL ASSESSMENTS FOR PUBLIC IMPROVEMENTS.

The cost of a public improvement may be defrayed in whole or in part by special assessment upon lands abutting upon, adjacent to, or otherwise benefitted by the improvement.
(Ord. 373-12-94, passed 12-19-94)

§ 35.02 PETITIONS FOR PUBLIC IMPROVEMENTS.

When the owners of a majority of the lands liable to be assessed in any special assessment district, or in any part of the City which may constitute a special assessment district, petition the City Commission for any public improvement except sewers, the Commission shall order such improvement to be made. In other cases public improvements shall be made at the

direction of the Commission. When the Commission shall determine to make any public improvement, including repairs, and defray all or part of the cost by special assessment, it shall so declare by resolution, stating the improvement and what part or portion of the cost thereof shall be paid by special assessment, and what part, if any, shall be appropriated from the general fund of the City, or from any specific fund, and shall designate the district or lands and premises upon which the special assessment shall be levied.
(Ord. 373-12-94, passed 12-19-94)

§ 35.03 ESTIMATES AND DIAGRAMS TO BE PREPARED.

Before ordering any public improvement, including repairs, any part of the cost of which is to be defrayed by special assessment, the Commission shall cause estimates of the cost to be made and diagrams to be drawn of the work and the locality to be improved. The diagrams shall be filed with the City Clerk for public examination. The Commission shall give notice of the proposed public improvement and the district to be assessed by publication once a week for at least two consecutive weeks in a local newspaper identifying the time when the Commission will meet and consider any objections.
(Ord. 373-12-94, passed 12-19-94)

§ 35.04 COST OF PUBLIC IMPROVEMENTS.

The cost of any public improvement which may be defrayed by special assessment shall include, without limitation, the cost of surveys, plans, assessments, permits, fees, construction, necessary condemnation and necessary expenses incurred for engineering, financial, legal, administrative, and other professional services of a similar kind involved in the making and financing of the improvement and in the levying and collecting of the special assessment. If the service is rendered by City employees, the City may include in the cost to be defrayed by special assessment the fair and reasonable cost of rendering the service.
(Ord. 373-12-94, passed 12-19-94)

§ 35.05 TIME OF SPECIAL ASSESSMENTS.

Special assessments to defray the estimated cost of any improvement shall be levied before or during the process of making the improvement.
(Ord. 373-12-94, passed 12-19-94)

§ 35.06 PRO RATA SPECIAL ASSESSMENTS.

When any special assessment is to be made pro rata upon the lots and premises in any special assessment district according to frontage, benefits, or other method, the Commission shall by resolution direct the same to be made by the Assessor. The resolution shall state the estimated cost of the improvement, what proportion of the cost of the improvement is to be paid by special assessment, what part, if any, is to be paid by the City, the number of installments in which assessments may be paid, and the special assessment district or the land and properties on which the special assessments are to be levied. The Commission shall state the method by which the special assessment for each lot, parcel of land, or properties shall be calculated.
(Ord. 373-12-94, passed 12-19-94)

§ 35.07 DUTIES OF ASSESSOR.

Upon receiving direction from the Commission by resolution, the Assessor shall prepare an assessment roll, entering and describing all the lots, premises, and parcels of land to be assessed, and the names of those persons, if known, chargeable with the assessments. The Assessor shall levy the amount to be assessed upon the land and against the persons according to the roll, in the manner directed by the Commission and the provisions of this chapter. In all cases where the ownership of any description is unknown to the assessor, he or she shall insert the word "unknown." If by mistake or otherwise any person shall be improperly designated as the owner of any land, or if the land shall be assessed without the proper name of the owner, such assessment shall remain valid, in all respects, upon and against such lots, parcels, or premises as though assessed in the name of the proper owner. When the special assessment roll is confirmed it shall be a lien on the lots, parcels, or premises.
(Ord. 373-12-94, passed 12-19-94)

§ 35.08 METHOD OF ASSESSMENT.

(A) If the assessment is according to frontage, the Assessor shall assess to each lot or parcel of land such relative portion of the whole amount to be levied as the length of the front of such premises abutting upon the improvement bears to the whole frontage of all the lots to be assessed, because of the shape or size of any lot or parcel of land an assessment for a different number of feet would be more equitable. If the assessment is according to benefits, the Assessor shall assess upon each lot such relative portion of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to each lot from the improvement.

(B) When the Assessor shall have completed the assessment, he or she shall report to the Commission in the form of a certificate endorsed on the assessment roll as follows:

"STATE OF MICHIGAN
CITY OF BIG RAPIDS

TO THE CITY COMMISSION:

I hereby certify and report that the foregoing is the special assessment roll and the assessment made by me pursuant to the resolution of the City Commission adopted on _____ for the purpose of paying that part of the cost which the Commission decided should be paid and borne by special assessment for the described public improvement.

In making the assessment I have, as near as may be, and according to my best judgment, conformed in all respects to the directions contained in the resolution of the Commission and applicable provisions of the Charter and City Code.

Dated: _____

City Assessor"

(Ord. 373-12-94, passed 12-19-94)

§ 35.09 NOTICE AND HEARING.

Before adopting or confirming any special assessment, notice of hearing for the special assessment proceeding shall be given to each owner of or party in interest in any lot, parcel of land, or property to be assessed, whose name appears upon the last local tax assessment records. Notice shall be given by mailing, by first class mail, a notice addressed to that owner or party at the address shown on the tax records at least ten days before the date of the hearing. The notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceeding is required in order to appeal the amount of the special assessment to the state tax tribunal.
(Ord. 373-12-94, passed 12-19-94)

§ 35.10 FORM OF NOTICE.

The exact form of the notice shall be determined by the Assessor. The notice shall comply with applicable state statutes and the provisions of this chapter. The notice of the special assessment sent to the property owner or person responsible for payment of the ad valorem property taxes shall include complete information on how to appeal the special assessment. The notice shall include a statement that the owner or any person having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.
(Ord. 373-12-94, passed 12-19-94)

§ 35.11 FAILURE TO GIVE NOTICE.

Any failure to give notice as required shall not invalidate an entire assessment roll, but such failure may invalidate the assessments on property affected by the lack of notice. A special assessment shall not be declared invalid as to any property if the owner or the party in interest actually has received notice, has waived notice, or has paid any part of the assessment. If any assessment is declared void by court order or judgment, a reassessment of the property may be made.
(Ord. 373-12-94, passed 12-19-94)

§ 35.12 COMMISSION REVIEW.

At the time and place appointed for the purpose of reviewing the assessment, the City Commission and Assessor shall meet, review the assessment, and hear any objections raised by any person who believes he or she was or will be aggrieved by the assessment. The Commission may correct the roll as to any assessment, description of premises, or other error, and may confirm the roll as reported or as corrected. The Commission may refer the assessment roll back to the Assessor for revision, or the Commission may annul it and direct a new assessment, in which case new proceedings by way of notice and hearing shall be held. When a special assessment is confirmed by the City Commission, the City Clerk shall make an endorsement upon the roll showing the date of confirmation.
(Ord. 373-12-94, passed 12-19-94)

§ 35.13 NATURE OF ASSESSMENT.

Any special assessment confirmed by the City Commission shall be final and conclusive, subject only to a properly taken appeal to the state tax tribunal. All special assessments from the date of confirmation shall constitute a lien upon the respective lots or parcels of land assessed and shall be a charge against the person to whom assessed until paid.
(Ord. 373-12-94, passed 12-19-94)

§ 35.14 COLLECTION AND PAYMENT.

Upon the confirmation of any special assessment, the amount may be divided into not more than ten installments, one of which shall be collected each year at times determined by the Commission, with annual interest at the rate determined by the Commission upon confirmation of the roll, but the whole assessment after confirmation may be paid to the City Treasurer at any time, in full, with the proportionate accrued interest. All special assessments shall be due upon confirmation, except when the Commission directs that payment can be made in installments, or when a different date for payment in the future is specified by the Commission.
(Ord. 373-12-94, passed 12-19-94; Am. Ord. 441-12-98, passed 12-21-98)

§ 35.15 APPORTIONMENT WHEN LAND IS DIVIDED.

No apportionment of a special assessment shall be allowed except by direction of the City Commission after review of the request for apportionment and a report of the Assessor on the request. The Commission may direct the Assessor to apportion the uncollected assessment upon several lots or parcels of land divided from a larger lot or parcel. The Assessor's report of such apportionment, when confirmed by the Commission after notice and hearing, shall be conclusive on all the parties.

(Ord. 373-12-94, passed 12-19-94)

§ 35.16 INSUFFICIENT OR EXCESSIVE SPECIAL ASSESSMENTS.

When any special assessment proves to be insufficient to pay for the cost of the improvement for which it was levied, the Commission may make an additional pro rata assessment. In case a larger amount is collected than was necessary, the excess shall be refunded on a pro rata basis to those who paid.

(Ord. 373-12-94, passed 12-19-94)

§ 35.17 IRREGULAR, INVALID, OR VOID ASSESSMENTS.

Whenever any special assessment shall be deemed irregular, invalid, or void by the City Commission, whether by court order or otherwise, the Commission may reassess for the collection of the cost of the improvement without limitation, except that payments made in satisfaction of the original assessment shall be applied on the reassessment.

(Ord. 373-12-94, passed 12-19-94)

§ 35.18 DUTIES OF CITY TREASURER AND ASSESSOR.

When any special assessment roll shall be confirmed, the City Clerk shall transmit the roll to the City Treasurer for collection. The City Treasurer shall certify to the Assessor on an annual basis those assessments that remain unpaid. Upon receiving the certificate, the Assessor shall levy the sums identified upon the respective lots or parcels of land to which they are specifically assessed, complete with interest at the rate of 6%, and against the person chargeable therewith, as a tax in the next general tax roll of the

City. The amount levied in the tax roll shall be collected and enforced with the other taxes and shall continue to be a lien upon the lots or parcels of land until paid.

(Ord. 373-12-94, passed 12-19-94)

§ 35.19 SUITS FOR COLLECTION.

At any time after a special assessment has become confirmed, but timely payment has not been made, the amount of the assessment can be collected by a lawsuit in the name of the City against the person or property assessed. The special assessment roll, a certified copy of the resolution confirming the roll, and certification by the City Treasurer that the payment was not made in a timely fashion, shall be prima facie evidence of the right of the City to recover the amount indicated.

(Ord. 373-12-94, passed 12-19-94)

§ 35.20 IRREGULARITIES IN ASSESSMENT NO BAR TO COLLECTION.

Irregularities in the special assessment process shall not be a bar against a claim by the City for the actual cost of the improvement incurred by the City.

(Ord. 373-12-94, passed 12-19-94)

**CHAPTER 36: VACATING, DISCONTINUING OR ABOLISHING
STREETS OR PUBLIC GROUNDS**

Section

- 36.01 Proposal to be presented to City Commission
- 36.02 Planning Commission to conduct public hearing
- 36.03 Planning Commission to report summary of comments, recommend approval or denial
- 36.04 City Commission to act on proposal
- 36.05 Clerk to record ordinance

§ 36.01 PROPOSAL TO BE PRESENTED TO CITY COMMISSION.

All requests or proposals to vacate, discontinue, or abolish any highway, street, lane, alley or public ground, or any part thereof, shall be presented to the City Commission, and by resolution approved by at least three members of the City Commission, shall be referred to the Planning Commission to conduct a public hearing on the proposal, and to receive recommendations from City staff, and to make a recommendation to the City Commission.
(Ord. 487-11-01, passed 11-19-01; Am. Ord. 655-1-13, passed 1-22-13)

§ 36.02 PLANNING COMMISSION TO CONDUCT PUBLIC HEARING.

Upon referral by the City Commission the Planning Commission shall conduct a public hearing on the proposal, and the City Clerk shall publish notice of the proposal and the public hearing on it once a week for three weeks prior to the public hearing. City departments shall make recommendations on the proposal in writing to the Planning Commission prior to the public hearing, and shall identify existing easements and public or private improvements located within the area proposed to be vacated.
(Ord. 487-11-01, passed 11-19-01; Am. Ord. 655-1-13, passed 1-22-13)

§ 36.03 PLANNING COMMISSION TO REPORT SUMMARY OF COMMENTS, RECOMMEND APPROVAL OR DENIAL.

The Planning Commission shall report to the City Commission a summary of the written and oral comments received at the public hearing on the proposal, and shall recommend approval or denial of the proposal, with a recommendation and description of the size and location of any easement to be reserved by the City in the area proposed to be vacated.
(Ord. 487-11-01, passed 11-19-01; Am. Ord. 655-1-13, passed 1-22-13)

§ 36.04 CITY COMMISSION TO ACT ON PROPOSAL.

Not sooner than 28 days and not later than 90 days after the public hearing on the proposal conducted by the Planning Commission, the City Commission shall receive the report and recommendation of the Planning Commission and shall act on the proposal, with at least four votes being required to approve the proposal in ordinance form to vacate, discontinue, or abolish any highway, street, lane, alley or public ground or any part thereof.
(Ord. 487-11-01, passed 11-19-01; Am. Ord. 655-1-13, passed 1-22-13)

§ 36.05 CLERK TO RECORD ORDINANCE.

The Clerk shall record with the Mecosta County Register of Deeds any ordinance by which the City Commission decides to vacate, discontinue, or abolish any highway, street, lane, alley or public ground or any part thereof.
(Ord. 487-11-01, passed 11-19-01)

CHAPTER 37: PUBLIC RECORDS

Section

- 37.01 Definitions
- 37.02 Enhanced access authorized
- 37.03 Reasonable fee
- 37.04 Access by another public body

§ 37.01 DEFINITIONS.

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

ENHANCED ACCESS. A public record's immediate availability for public inspection, purchase, or copying by digital means. **ENHANCED ACCESS** does not include the transfer of ownership of a public record.

GEOGRAPHICAL INFORMATION. An informational unit or network capable of producing customized maps based on a digital representation of geographical data.

OPERATING EXPENSES. Includes, but is not limited to, the City's direct cost of creating, compiling, storing, maintaining, processing, upgrading, or enhancing information or data in a form available for enhanced access, including the cost of computer hardware and software, system development, employee time, and the actual cost of supplying the information or record in the form requested by the purchaser.

PERSON. That term as defined in section 2 of the Michigan Freedom of Information Act, MCL 15.232.

PUBLIC BODY. That term as defined in section 2 of the Michigan Freedom of Information Act, MCL 15.232.

PUBLIC RECORD. That term as defined in section 2 of the Michigan Freedom of Information Act, MCL 15.232.

REASONABLE FEE. A charge calculated to enable the City to recover over time only those operating expenses directly related to the City's provision of enhanced access, which shall be reviewed by City staff annually.

SOFTWARE. A set of statement or instructions that when incorporated in a machine-usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result.

THIRD PARTY. A person who requests a geographical information system of output from a geographical system operated by the City. However, **THIRD PARTY** does not include a person for whom a fee authorized under this chapter and the Enhanced Access to Public Records Act, MCL 15.441, is waived according to an inter-governmental agreement with the City.
(Ord. 547-05-05, passed 5-16-05)

§ 37.02 ENHANCED ACCESS AUTHORIZED.

The City may provide enhanced access for the inspection, copying, or purchasing of a public record that is not confidential or otherwise exempt by law from disclosure, with a license limiting the use of the information.
(Ord. 547-05-05, passed 5-16-05)

§ 37.03 REASONABLE FEE.

The City shall charge a reasonable fee for providing access to its geographical information system, or output from its geographical information system, according to the following schedule:

GIS - Mapping/Data Fee Schedule

Paper Products (printing of Orthophoto and other Projects)

Size	Description	Fee
A	8.5 x 11	\$3.00
B	11 x 17	\$5.00
C	17 x 22 (18 x 24)	\$10.00
D	22 x 34 (24 x 36)	\$20.00
E/F	34 x 44 (36 x 48) or 28 x 40 (30 x 42)	\$30.00

Digital Information - MRSid or TIFF Format only

Title(s)	Media	Fee
Each Title	CD/DVD	\$55.00
Entire City	CD	\$500.00
Surrounding Area	DVD Only	\$1,000.00
Entire Orthophoto	DVD Only	\$1,500.00

Copies of Building Plans on Engineering Copier - \$5 per copy (City related business only)
(Ord. 547-05-05, passed 5-16-05)

§ 37.04 ACCESS BY ANOTHER PUBLIC BODY.

The City may provide another public body with access to the City's geographical information system for the official use of that other public body, without charging a fee to that other public body, if the access to or output from the system is provided in accordance with a written intergovernmental agreement that complies with MCL 15.443.
(Ord. 547-05-05, passed 5-16-05)

CHAPTER 38: PUBLIC ETHICS POLICY

Section

- 38.01 Title
- 38.02 Purpose
- 38.03 Application
- 38.04 Public interest
- 38.05 Definitions
- 38.06 Direction to public servants
- 38.07 Fair and equal treatment
- 38.08 Use of public property
- 38.09 Matters requiring disclosure of conflicts of interest, actual and potential
- 38.10 Prohibited conduct
- 38.11 Public disclosure, contents
- 38.12 Duties of the City Clerk
- 38.13 Request for opinion from the City Attorney
- 38.14 Delivery of copies of ethics policy ordinance to public servants
- 38.15 Investigation and prosecution of violations
- 38.16 Violation of chapter

§ 38.01 TITLE.

This chapter shall be known as the Big Rapids Ethics Policy Ordinance.
(Ord. 680-10-14, passed 10-6-14)

§ 38.02 PURPOSE.

The purpose of this chapter shall be to encourage all persons in the municipal service to perform their work in compliance with high ethical standards.
(Ord. 680-10-14, passed 10-6-14)

§ 38.03 APPLICATION.

This chapter shall apply to all persons in the municipal service of the City of Big Rapids, whether compensated or acting as volunteers without compensation.
(Ord. 680-10-14, passed 10-6-14)

§ 38.04 PUBLIC INTEREST.

Any person in the municipal service of the City of Big Rapids shall place the public interests above his or her self interest.
(Ord. 680-10-14, passed 10-6-14)

§ 38.05 DEFINITIONS.

Whenever in this chapter the following terms are used, they shall have the meanings described to them in this section.

BUSINESS ENTITY. A business entity includes a corporation, limited liability company, a partnership, sole proprietorship, joint venture, unincorporated association, trust, or other business form.

CITY. The City of Big Rapids, a Michigan municipal corporation.

INTEREST. Any right, title or share in something, that is personal, financial, legal or equitable, and which is owned, held or controlled, in whole or in part, directly or indirectly, by a public servant.

PUBLIC BODY. The City Commission and any board, authority, commission, committee, department, office or other agency of the City, including the City.

PUBLIC SERVANT. The Mayor, Member of the City Commission, Officer, full or part-time City employee and any person elected or appointed to any public body of the City, whether compensated or not.
(Ord. 680-10-14, passed 10-6-14)

§ 38.06 DIRECTION TO PUBLIC SERVANTS.

(A) A public servant, regardless of whether specifically prohibited by this chapter, shall avoid any action which might result in or create the appearance of:

(1) Using public office or employment for private gain.

(2) Giving improper preferential treatment to any person or organization.

(3) Impeding government efficiency or economy.

(4) A lack of independence or impartiality of action.

(5) Making a government decision outside of official channels.

(6) Affecting adversely the confidence of the public in the integrity of the City.

(B) It is not the intent of this chapter to limit the right or ability of any public servant to exercise his or her discretion in making legitimate policy decisions which are within their discretion so long as such action does not provide a special benefit to that person, relieve the public servant of a particular duty, or treat that person differently than other similarly situated City residents.

(Ord. 680-10-14, passed 10-6-14)

§ 38.07 FAIR AND EQUAL TREATMENT.

No public servant shall request, use or permit the use of any consideration, treatment, advantage or favor beyond that which is the general practice to grant or make available to the public at large. All public servants shall treat all citizens of the City with courtesy, impartiality, fairness and equality under the law.

(Ord. 680-10-14, passed 10-6-14)

§ 38.08 USE OF PUBLIC PROPERTY.

No public servant shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, material, labor or service, or money, for the personal convenience or the private advantage of himself, herself or of any other person. This requirement shall not prevent any public servant from requesting, using or permitting the use of such publicly owned or publicly supplied property, vehicle, equipment, material, labor or service which is made available by general practice, to the public at large, or which is provided as a matter of public policy for the use of public servants in the conduct of official business, as approved consideration for their services to the City.

(Ord. 680-10-14, passed 10-6-14)

§ 38.09 MATTERS REQUIRING DISCLOSURE OF CONFLICTS OF INTEREST, ACTUAL AND POTENTIAL.

The following disclosure requirements are established to avoid both actual and potential conflict between the private self-interest and the public interest of public servants:

(A) *Self interest.* No public servant, either on his or her behalf or on behalf of any other person, shall have an interest in any business transaction with any public body of the City, unless the person shall first make full public disclosure of the nature of such interest.

(B) *Disclosure and disqualification.* Whenever the performance of official duties shall require a public servant to deliberate and vote on any matter involving his or her financial or personal interest, that person shall publicly disclose the nature and extent of such interest and is disqualified from participating in the deliberations and voting on the matter.

(C) *Dual employment.* No public servant shall engage in employment with, or render services for, any-person or entity, which has business transactions with any public body of the City, without first making full public disclosure of the nature and extent of the employment or services.

(D) *Dual representation.* A public servant shall make full public disclosure of business involving the City when attempting to use his or her official position to secure special privileges or exemptions for self or others.

(Ord. 680-10-14, passed 10-6-14)

§ 38.10 PROHIBITED CONDUCT.

All public servants are prohibited from engaging in the following conduct:

(A) Divulging confidential information to any person not authorized to obtain such information.

(B) Benefitting financially from confidential information.

(C) Representing his or her individual opinion as that of the City.

(D) Misusing City personnel, resources, property, funds or assets for personal gain.

(E) Soliciting or accepting a gift or loan of money, goods, services or other things of value which tend to influence the manner in which the public servant performs his or her official duties.

(F) Engaging in a business transaction which may cause the public servant to derive a personal profit or gain directly or indirectly as a result of his or her official position.

(G) Engaging in employment or rendering services that are incompatible or in conflict with the discharge of his or her official duties or that tend to impair his or her independence of judgment.

(H) Participating in contracts, loans, grants, rate-fixing, or issuing permits involving a business entity in which he or she has a substantial interest; however this provision shall not apply in the following circumstances:

(1) Contracting with the City when:

(a) The contract is awarded pursuant to sealed bids,

(b) The public servant is not involved directly or indirectly or otherwise refrains from participation in the decision on the award of the contract, and

(c) The City Commission, after reviewing the circumstances, determines the award of the contract would be in the best interest of the City, or

(2) Where the interest of the public servant in the business entity involves the holding of less than 1% of the securities in a publicly traded business or less than 5% of any privately or closely held business and where the public servant will not have any involvement in the transaction on behalf of the contracting business entity.

(Ord. 680-10-14, passed 10-6-14)

§ 38.11 PUBLIC DISCLOSURE, CONTENTS.

Whenever a public disclosure is required by this chapter, it may be made orally on the record at a meeting of the public body involved, or in a writing filed with the City Clerk, and in both cases it shall be made a part of the record of a regular City Commission meeting, and in either event shall include:

(A) The identity of all persons involved in the interest.

(B) The source and amount of income derived from the interest that may be considered as resulting from employment, investment or gift. The person required to file a disclosure statement in accordance with the provisions of this chapter must verify, in writing, under penalty of perjury, the information in the statement is true and complete as far as he or she knows.

(Ord. 680-10-14, passed 10-6-14)

§ 38.12 DUTIES OF THE CITY CLERK.

The City Clerk shall examine all disclosure statements filed pursuant to this chapter and report irregularities immediately to the person filing the statement to the City Manager and the City Attorney. Acceptance of a statement by the City Clerk shall not constitute approval of the statement. The City Clerk shall maintain a current list of all disclosure statements required to be available for public disclosure. The City Clerk shall preserve all disclosure statements for at least three years after the date on which they are filed. The City Clerk shall make available to the public all statements that are required to be available for inspection during regular business hours.

(Ord. 680-10-14, passed 10-6-14)

§ 38.13 REQUEST FOR OPINION FROM THE CITY ATTORNEY.

Any public servant may request that the City Attorney provide an advisory opinion interpreting the effect or application of this chapter generally, or on questions directly relating to the propriety of their conduct in a particular situation.

(Ord. 680-10-14, passed 10-6-14)

§ 38.14 DELIVERY OF COPIES OF ETHICS POLICY ORDINANCE TO PUBLIC SERVANTS.

The City Clerk shall deliver a copy of this chapter to each public servant as soon as practicable after the enactment of this chapter, and to each new public servant at the time of employment or taking office. The City Clerk shall request that each such person sign and return an acknowledgement of receipt of a copy of this chapter.

(Ord. 680-10-14, passed 10-6-14)

§ 38.15 INVESTIGATION AND PROSECUTION OF VIOLATIONS.

(A) Alleged violations of § 38.10 shall be reported to, and investigated by, the Big Rapids Department of Public Safety, except when the person or persons investigated work within the Department of Public Safety, then another law enforcement department or agency shall be asked to investigate.

(B) Alleged violations of § 38.10 shall be authorized and prosecuted by the Big Rapids City Attorney, except when the person or persons alleged to have violated § 38.10 work within the Department of Law, then a special City attorney from outside the Department of Law shall be appointed by the City Commission to authorize and prosecute the alleged violations.

(C) The Big Rapids City Attorney and a special City attorney appointed by the City Commission pursuant to division (B) above, may decline to prosecute an alleged violation of § 38.10 after an alleged violator of § 38.10 resigns from any and all offices and positions with the City of Big Rapids.
(Ord. 680-10-14, passed 10-6-14)

§ 38.16 VIOLATION OF CHAPTER.

The violation of any provision of § 38.10 shall be a misdemeanor punishable by a fine of not more than \$500 or by a sentence of 90 days in jail, or both, in the discretion of the Court. The penalty or penalties imposed are not exclusive remedies under this chapter and any and all statutory and Charter penalties or forfeitures may also be enforced. Any person convicted under a provision of § 38.10 shall be deemed guilty of misconduct in office. The violation of any provision of this chapter other than § 38.10 shall be a municipal civil infraction.
(Ord. 680-10-14, passed 10-6-14)

TITLE V: PUBLIC WORKS

Chapter

- 50. GARBAGE AND RUBBISH**
- 51. WATER**
- 52. SEWER USE REGULATIONS**
- 53. WASTEWATER PRETREATMENT
APPENDIX: MERCURY REDUCTION PLANS**
- 54. WATER AND SEWER RATES**
- 55. STORMWATER CONTROL AND MANAGEMENT**

CHAPTER 50: GARBAGE AND RUBBISH

Section

50.01	Definitions
50.02	Accumulation of garbage
50.03	Service
50.04	Hours
50.05	Special materials
50.06	Extraordinary materials
50.07	Location
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50.15	Enforcement
50.16	City-ordered pickups of trash
50.99	Penalty

§ 50.01 DEFINITIONS.

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

BRANCHES. Greater than one inch and less than six inches in diameter.

BUSINESS. All retail, professional, wholesale and industrial facilities and any other commercial enterprises offering goods or services to the public.

COMMERCIAL. All multi-dwellings and businesses.

CONTAINER. Any detachable metal container designed or intended to be mechanically dumped into the packer-type garbage truck used by the Contractor and varying in size from one to 20 cubic yards.

CONTAINERIZED BUSINESS. Any business, institutions, multi-dwelling or other structure whose garbage and/or trash is deposited in an approved container for removal by the Contractor.

GARBAGE CAN. Any cylindrical light gauge steel, plastic, or galvanized receptacle, closed at one end and opened at the other, furnished with a top or lid and two handles, of not more than 30 gallon capacity and not weighing more than 50 pounds when full; it shall also mean City-approved plastic bags or liners not exceeding 30 pounds gross weight securely tied at the top.

GARBAGE. All waste and accumulation of animal, fruit, or vegetable matter that attends or results from the preparation, use, handling, cooking, serving or storage of meats, fish, fowl, fruit or vegetable matter of any nature whatsoever, which is subject to decay, putrefaction and the generation of noxious and offensive gases or odors, or which may serve as a breeding or feeding material for flies and/or other germ-carrying insects.

HAZARDOUS MATERIALS. Wastes that are hazardous by reason of their pathological, explosive, radiological or toxic characteristics.

INDUSTRIAL. Establishments generating waste accumulations of metal, metal products, minerals, chemicals, rock and the like.

INSTITUTIONAL. A customer occupying a premises that is exempt from general property taxation.

LEAVES. Deciduous and coniferous seasonal deposits of leaves, including needles, buds, flower petals, and seeds.

MULTI-DWELLING. Any building or structure containing five or more contiguous living units and intended exclusively for residential single persons or families. Each unit of a multi-dwelling shall be considered a separate dwelling unit for purposes of billing unless served by containers.

NONCONTAINERIZED BUSINESS. Any business, apartment or other structure whose garbage and trash is accumulated and stored by means other than container.

POLYCARD OR TOLER. A plastic garbage container mounted on wheels of varying sizes (typically 40 to 95 gallons) specifically designed for pickup by rear or front mountings on garbage trucks with attached lids and lifting bars.

RECYCLABLES CONTAINER. The Contractor shall provide each residence with a container in which recyclable materials can be placed for collection. There shall be a fee of \$6 charged for each container that is lost, damaged, replaced, or otherwise provided in addition to the first container.

REFUSE. Combined garbage and trash.

RESIDENCE. A dwelling structure containing one, two, three, or four units, each designed for occupancy by one family. Each mobile home in a noncontainerized area shall be deemed a "residence."

SPECIAL MATERIALS. Those bulky materials or other special wastes that are not stored in standard storage containers and cannot be picked up by a regularly used collection vehicle.

TRASH. Accumulations of rubbish, such as, but not necessarily limited to, sweepings, dust, rags, bottles, jars, yard waste or other waste materials of any kind which are usually attendant to domestic house holds or housekeeping and the premises upon which said households are located. Accumulations of lawn, grass, or shrubbery cuttings, or clippings and dry leaf rakings, small tree branches, which shall not exceed four feet in length and three inches in diameter, bushes, or shrubs, green leaf cuttings, fruits or other matters usually created as refuse in the care of lawns and yards, except large branches, trees, or bulky or noncombustible materials not susceptible to normal loadings and collection in "loadpacker" type sanitation equipment used for regular collections from domestic households.

YARD WASTE. Grass clippings, weeds, hedge clippings, garden waste, twigs and brush no longer than four feet in length and one inch in diameter or other matter usually created as refuse in the care of lawns and yards.

(B) *Interpretation.* Words and terms not defined herein shall be interpreted in the manner of their common usage. When not inconsistent with the content, words in singular number include the plural number, and words in the plural number include the

singular number. The word "shall" is always mandatory and is not merely directory.

('88 Code, Title II, Ch. 21, § 2.1) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90; Am. Ord. 359-6-94, passed 6-6-94; Am. Ord. 554-08-05, passed 8-1-05)

Editor's note: Ord. 285-5-90 did not include a definition for the term "Contractor," the firm contracted by the City to pick up garbage and refuse in the City.

§ 50.02 ACCUMULATION OF GARBAGE.

No person as owner, lessee, manager, or supervisor of any premises shall permit to accumulate on said premises any garbage except in covered containers which are rodent proof and watertight. The garbage containers shall not exceed the capacity of 30 gallons unless it is an approved polycard or dumpster.

('88 Code, Title II, Ch. 21, § 2.2) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90; Am. Ord. 554-08-05, passed 8-1-05) Penalty, see § 50.99

§ 50.03 SERVICE.

(A) For all classes of garbage service the Director of Community Development or his designee shall determine the size and type of garbage container which shall be employed. The determination of the size and type of garbage container by the Director of Community Development or his designee shall be final and binding on the customer, subject to an appeal first to the City Manager and thereafter to the City Commission. The determination shall be based on the experience of the garbage collection contractor with the customer and similar customers, and a review of the amount of garbage that accumulates on the premises over regular collection periods. The Director of Community Development shall inform the City Treasurer's Office of the size and type of garbage container to be used by any particular customer, and the proper charge shall be added to the billing.

(B) *Residential.* All persons occupying or maintaining a place of residence (one to four units) shall be provided regular refuse collection service, and all units are required to receive the service. Such service may be suspended upon approval of an application made to the City. Should any residence have excessive quantities of refuse as determined by the Director of Community Development based on the amount of refuse, container size and overflow,

inadequacy of the container, or any other relevant fact, the Director may require a polycart container for that residence. It is the express position of the City that all multiple dwellings shall use a polycart or dumpster.

(C) *Commercial*. Multiple dwellings of five or more units and business, commercial, institutional, and industrial establishments, shall use the service provided by the City at a frequency and with the type and size of container determined by the Director of Community Development or his designee as described in division (A). The Director shall consider and determine the proper size and type of container and the frequency of collection so that no health hazard, blight, or undue collection difficulties will exist or be created. Multiple dwellings or businesses may, with the discretionary approval of the Director of Community Development, contract together where appropriate and efficient to share a garbage container or dumpster and the costs thereof. The Director of Community Development is empowered and authorized to negotiate and determine the conditions for the sharing of a container and collection service.

('88 Code, Title II, Ch. 21, § 2.3) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90; Am. 296-1-91, passed 1-7-91; Am. Ord. 359-6-94, passed 6-6-94; Am. Ord. 554-08-05, passed 8-1-05; Am. Ord. 762-07-20, passed 7-20-20) Penalty, see § 50.99

§ 50.04 HOURS.

(A) *Residential*. Collections shall be made in residential areas beginning at 6:00 a.m., with no service on Sunday, except in time of emergency or to maintain schedules due to holidays.

(B) *Commercial*. Collections shall be made between the hours of 6:00 a.m. and 9:00 p.m., with the exception of shopping, business, and industrial centers where collections at night or during early morning hours do not disturb the immediate residential area.

('88 Code, Title II, Ch. 21, § 2.4) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90)

§ 50.05 SPECIAL MATERIALS.

The Contractor shall provide haul service for materials not routinely generated in residential areas. The materials (for example, construction debris and animal bedding) shall be stored and placed in a manner approved by the City and the Contractor.

('88 Code, Title II, Ch. 21, § 2.5) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90) Penalty, see § 50.99

§ 50.06 EXTRAORDINARY MATERIALS.

Hazardous wastes, dead animals, abandoned vehicles, vehicle parts, large equipment and equipment parts shall not be collected except by special arrangement with the City.

('88 Code, Title II, Ch. 21, § 2.6) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90)

§ 50.07 LOCATION.

All solid wastes, both residential and commercial, shall be placed at a location prior to scheduled collection that is readily accessible for collection by the Contractor.

(A) *Residential.* Garbage must be in approved receptacles which shall be placed at a single collection point. Trash must be in approved receptacles or tied in bundles as described herein and placed at a single collection point within six feet of the curb or alley.

(B) *Commercial.* Bulk containers shall be kept on the premises in a place near the street or alley readily accessible to the collection vehicle. Noncontainerized businesses shall have refuse in approved receptacles which shall be placed at a single collection point readily accessible to the collection crew and vehicle.

('88 Code, Title II, Ch. 21, § 2.7) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90) Penalty, see § 50.99

§ 50.08 ACCUMULATION OF RUBBISH.

No person as owner, lessee, manager, or supervisor of any premises shall permit any rubbish to accumulate on said premises for a period of longer than one week without arranging for the pickup and disposal thereof by the supervisor or employees of the City or by the contractor.

('88 Code, Title II, Ch. 21, § 2.8) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90) Penalty, see § 50.99

§ 50.09 TRANSPORTATION OF GARBAGE.

Vehicles used in the transportation of garbage shall be so constructed and maintained that no portion of the contents therefrom shall be deposited on any public highway. The vehicles shall be cleaned at sufficient frequency to prevent nuisance or insect breeding and shall be maintained in good repair.

('88 Code, Title II, Ch. 21, § 2.9) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90) Penalty, see § 50.99

§ 50.10 TRANSPORTATION OF RUBBISH.

No rubbish shall be transported in other than a covered vehicle by the supervisor or employees of the City or the Contractor.

('88 Code, Title II, Ch. 21, § 2.10) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90) Penalty, see § 50.99

§ 50.11 FEEDING OF GARBAGE TO ANIMALS.

This chapter shall not apply to individuals who feed garbage from their own domestic household to animals on their own premises when doing so does not create a nuisance or health hazard.

('88 Code, Title II, Ch. 21, § 2.11) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90)

§ 50.12 RATES.

Rates for refuse pickup in the City will be established by ordinance and are set forth in the following chart:

[Chart appears on the following page.]

Big Rapids - Public Works**SCHEDULE OF MONTHLY SANITATION RATES - Effective July 1, 2020**

DUMPSTER RATES						
Frequency Per Week	Cubic Yards	2	3	4	6	8
1	Base	\$49.17	\$67.35	\$75.16	\$91.83	\$106.51
	Administration	12.29	16.84	18.79	22.96	26.63
	Total	61.46	84.19	93.95	114.79	133.14
2	Base	98.46	126.81	141.50	172.73	200.92
	Administration	24.62	31.70	35.38	43.18	50.23
	Total	123.08	158.51	176.88	215.91	251.15
3	Base	145.59	186.41	208.53	253.63	295.25
	Administration	36.40	46.60	52.13	63.41	73.81
	Total	181.99	233.01	260.66	317.04	369.06
4	Base	223.52	248.10	273.33	336.76	389.68
	Administration	55.88	62.03	68.33	84.19	97.42
	Total	279.40	310.13	341.66	420.95	487.10
5	Base	263.52	304.88	340.12	414.65	484.03
	Administration	65.88	76.22	85.03	103.66	121.01
	Total	329.40	381.10	425.15	518.31	605.04
6	Base	314.94	365.83	409.41	496.82	577.48
	Administration	78.74	91.46	102.35	124.21	144.37
	Total	393.68	457.29	511.76	621.03	721.85
7	Base	364.22	424.71	475.79	580.10	672.78
	Administration	91.06	106.18	118.95	145.03	168.20
	Total	455.28	530.89	594.74	725.13	840.98

Garbage and Rubbish

6A

COMMERCIAL	
1/2 Yard - 1 Time/Week	\$ 9.45 (Per Cart)
Administration	2.36
Total	11.81
1 Yard - 1 Time/Week	\$18.90 (Loose Pickup)
Administration	4.73
Total	23.63
Recycle - 1 Time/Week	\$11.64 (Per Cart)
Administration	2.91
Total	14.55
Overflow Volume Rate Charge	\$16.00 Per Yard

RESIDENTIAL	
Trash Service	\$ 9.45
Administration	2.36
Total	11.81
Cleanup	1.58
Administration	0.40
Total	1.98
Curbside Recycle	3.04
Administration	0.76
Total	3.80
Bagged Leaves/Yard Waste	3.05 - Leaves and Yard Waste - May Purchase Bags
Administration	0.76
Total	3.81
Total Residential	\$21.40
Additional Cart Rentals	\$ 2.11 Per Cart, Per Month

('88 Code, Title II, Ch. 21, § 2.13) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 303-5-91, passed 5-20-91; Am. Ord. 315-6-92, passed 6-15-92; Am. Ord. 353-5-94, passed 5-23-94; Am. Ord. 359-6-94, passed 6-6-94; Am. Ord. 363-7-94, passed 7-18-94; Am. Ord. 366-9-94, passed 9-19-94; Am. Ord. 371-11-94, passed 11-21-94; Am. Ord. 393-9-95, passed 9-5-95; Am. Ord. 406-7-96, passed 7-8-96; Am. Ord. 410-10-96, passed 10-21-96, passed 424-7-97, passed 7-7-97; Am. Ord. 438-8-98, passed 8-17-98; Am. Ord. 446-6-99, passed 6-21-99; Am. Ord. 469-7-00, passed 7-24-00; Am. Ord. 484-8-01, passed 8-6-01; Am. Ord. 491-05-02, passed 5-20-02; Am. Ord. 518-08-03, passed 8-4-03; Am. Ord. 529-05-04, passed 5-17-04; Am. Ord. 549-07-05, passed 7-5-05; Am. Ord. 571-08-06, passed 8-7-06; Am. Ord. 583-08-07, passed 8-6-07; Am. Ord. 598-07-08, passed 7-7-08; Am. Ord. 620-12-09, passed 12-7-09; Am. Ord. 627-07-10, passed 7-6-10; Am. Ord. 639-06-11, passed 6-20-11; Am. Ord. 650-9-12, passed 9-4-12; Am. Ord. 663-07-13, passed 7-1-13; Am. Ord. 674-06-04, passed 6-2-14; Am. Ord. 690-12-15, passed 12-7-15; Am. Ord. 701-11-16, passed 11-21-16; Am. Ord. 715-02-18, passed 2-19-18; Am. Ord. 729-11-18, passed 11-5-18; Am. Ord. 741-06-19, passed 6-3-19; Am. Ord. 758-06-20, passed 6-1-20)

§ 50.13 BILLINGS.

All billings for garbage and rubbish collection charges shall be rendered monthly under the supervision of the City and the bills shall be due and payable on the date specified in the bill. The bills

shall be generated and collected as part of the City utility billing system for water and sewer utilities, with the same conditions and penalties as are assessed for delinquent water and sewer charges. ('88 Code, Title II, Ch. 21, § 2.14) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90; Am. Ord. 554-08-05, passed 8-1-05)

§ 50.14 PICKUP OF GARBAGE OR RUBBISH.

On the day scheduled by the City Manager for the weekly pickup of garbage and rubbish from residences, apartment houses, duplex dwellings or residences with kitchen privileges for roomers the owner, lessee, manager or supervisor of the premises shall place the required garbage containers for the accumulated garbage from the premises at the alley bordering the premises if the alley is used to pick up garbage and rubbish. If there is no such alley, then the garbage containers shall be placed along the curb or traveled portion of the street adjacent to the premises not sooner than 6:00 p.m. before the day scheduled for said pickup and not later than the time scheduled for said weekly pickup. In all cases when the garbage containers are placed along the curb or street as required by this chapter, the owner, lessee, manager or supervisor shall remove the garbage containers from said curb or street to a storage place on the premises outside the building or buildings on said premises before 12:00 midnight on the day scheduled for garbage pickup. ('88 Code, Title II, Ch. 21, § 2.17) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90) Penalty, see § 50.99

§ 50.15 ENFORCEMENT.

The charges for garbage and rubbish disposal services are hereby recognized to constitute a lien on the premises served thereby and whenever any such charges against any piece of property shall be delinquent for six months, the City official or officials in charge of the collection thereof shall certify to the tax assessing officer of the City the fact of such delinquency, whereupon such charge shall be entered upon the next tax rolls as a tax against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. In addition, the City can apply the charges and collection mechanisms for delinquent water and sewer bills to unpaid garbage and rubbish collection bills as part of the City's utility billing process. ('88 Code, Title II, Ch. 21, § 2.15) (Ord. 170-5-82, passed 5-3-82; Am. Ord. 285-5-90, passed 5-7-90; Am. Ord. 554-08-05, passed 8-1-05)

§ 50.16 CITY-ORDERED PICKUPS OF TRASH.

The Building Inspector, Zoning Administrator, and the Director of Community Development are authorized to order the pickup of trash, rubbish, building debris, yard waste, tree trunks, limbs, or brush at the expense of the owner of any premises within the City when:

(A) The trash, rubbish, building debris, yard waste, tree trunks, limbs, or brush have been placed along the alley or street more than 36 hours prior to the next regular pickup; or

(B) Trash, rubbish, building debris, yard waste, tree trunks, limbs, or brush have been allowed to accumulate on any premises for a period of ten days after notice to the owner by first class mail and posting on the premises informing the owner that the accumulated material shall be removed or that it will be picked up at the owner's expense. (Ord. 400-11-95, passed 11-20-95; Am. Ord. 762-07-20, passed 7-20-20)

§ 50.99 PENALTY.

Any person who violates any garbage, rubbish, trash, or yard waste regulation in Title V, Chapter 50, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97. ('88 Code, Title II, Ch. 21, § 2.16) (Am. Ord. 427-10-97, passed 10-6-97)

CHAPTER 51: WATER

Section

- 51.01 Definitions
- 51.02 City Manager; powers and duties
- 51.03 Water fund
- 51.04 Water mains
- 51.05 Water main extensions
- 51.06 Service pipe; regulations, prohibitions
- 51.07 Service connections; permit required
- 51.08 Meters
- 51.09 Use of water
- 51.10 Public drinking fountains and the like
- 51.11 [Reserved]
- 51.12 Unlawful obstruction or interference with water system
- 51.13 Inspections
- 51.14 Emergency regulations
- 51.15 Sprinkling and fire protection
- 51.16 Cross-connections
- 51.17 Water utility service outside the corporate limits

- 51.99 Penalty

Cross-reference:

Water rates and charges, see Ch. 54
Capital Buy In Charge is defined in Chapter 54, §§ 54.14 and 54.15

§ 51.01 DEFINITIONS.

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

BACKFLOW. Water of questionable quality, wastes, or other contaminants entering a public water supply system due to a reversal of flow.

BACKFLOW PREVENTION DEVICE. Any device approved by the Michigan Department of Environmental Quality, which when properly installed and maintained will prevent backflow.

CAPITAL BUY IN CHARGE. The charge assessed to all customers connecting to the public water and/or sanitary sewer system. The **CAPITAL BUY IN CHARGE** shall consist of a Construction Fee and a Connection Fee.

CROSS CONNECTION. A connection or arrangement of piping or appurtenances through which a backflow could occur.

CURB BOX. A valve and related appurtenances generally located within the City right-of-way, or within an easement dedicated to the City, that allows the Department to turn the water on or off at each customer's building.

CUSTOMER. Any user of water supplied from the public water supply system operated and maintained by the City of Big Rapids.

DEPARTMENT. The office of the City Engineer/Utilities Director, or his or her designate.

MAIN. Any pipe, other than service pipe, used for conveying or distributing water.

METER HORN. A copper setting that holds the water meter connecting the service line to the building plumbing. The assembly generally includes a shut off valve on the service line side.

METER HORN ASSEMBLY. The meter horn, as provided by the manufacturer, plus a shut off valve installed adjacent to the meter horn on the property side.

NON-DEPARTMENT METER. A meter installed by the building owner for any non-department use that is not provided, maintained or read by the Department.

ON-SITE SYSTEM. Any water and/or sewage treatment and disposal system owned and maintained by a customer, such as a well or septic tank/tile field.

OWNER. Any person owning any premises supplied or to be supplied with City water, or his authorized agent.

PIPE. A long tube of metal or plastic used to convey water.

REMOTE READER. A device generally located on the outside of a building that allows the Department to electronically read the water meter located within the building.

SECONDARY METER. A meter owned by the City and used for lawn irrigation or other non-domestic use for which sewage charges are not applied. The meter shall be located upstream from the primary water meter.

SERVICE PIPE. The pipe tapped into the mains and extending thence to the meter horn.

SUPERINTENDENT. The Superintendent shall be appointed by the City Engineer/Utilities Director, subject to the approval of the City Manager, and shall meet the minimum qualifications established by the Michigan Department of Environmental Quality.

UTILITY RATES. The rates to be charged for water and sewer use, based upon the quantity of water consumed on any premises as measured by a water meter or flat rate charged if no meter is used. Utility rates shall also include the volume of water measured by a water meter installed in a home served by an on-site well, when the home is served by a public sewer.

UTILITY INVOICE. All charges for water and/or sewer services other than consumption charges for a particular owner or customer. Charges may be authorized by this Chapter or Chapter 54. All such charges shall be collectible as currently allowed by Chapter 54.

UTILITY SCHEDULE OF FEES. The Utility Schedule of Fees may include, but is not limited to, shut-off/turn-on charges, collection of delinquent bills, meter replacement charges, service line installation, connection fee and such other charges as may be established by the City Commission. The Utility Schedule of Fees shall establish the billing system for collection of the utility fees as allowed by this chapter.

('88 Code, Title II, Ch. 22, § 2.31) (Am. Ord. 476-02-01, passed 2-5-01; Am. Ord. 572-10-06, passed 10-2-06)

§ 51.02 CITY MANAGER; POWERS AND DUTIES.

(A) Subject to the City Commission, state statutes and the Charter, the City Manager shall have control of all matters in connection with the furnishing of water to the inhabitants of the City and adjacent communities, and make such operational rules and

regulations as he may deem necessary, and shall audit all bills and accounts for the maintenance of the water system of the City and report such bills and accounts to the City Commission with his recommendations thereon.

(B) The water supply system of the City, including all property and employees in connection therewith, shall be under the supervision of the City Manager. The City Manager shall designate some person to act as Superintendent of the water works, and the Superintendent shall, in accordance with the provisions of this Code, hire such employees as may be necessary for the operation of the Department, except that whenever skilled technicians are required, they shall be designated by the City Manager. The Superintendent shall have direct control of the operation and maintenance of the water system, as directed by the City Manager and the Department shall enforce the provisions of this chapter.

(C) The City Manager shall erect, in the City and other places as permitted by law, reservoirs, buildings, machinery, and fixtures, lay pipes, construct aqueducts and other works, including service pipes from the main to the building, and the installations of all meters and other incidentals and acquire, purchase, maintain, alter and repair the same.

('88 Code, Title II, Ch. 22, § 2.32(1) - (3)) (Am. Ord. 572-10-06, passed 10-2-06)

§ 51.03 WATER FUND.

All moneys received shall be paid into the City treasury and such moneys shall apply exclusively to the payment of the expenses incurred in the construction, operation, and maintenance of the water works, including the interest and principal of any or all bonds issued and to be issued on account of the water system of the City. All moneys received shall be kept in a separate fund to be known as the water fund and shall be used only for purposes designated by this chapter.

('88 Code, Title II, Ch. 22, § 2.32(4)) (Am. Ord. 572-10-06, passed 10-2-06)

§ 51.04 WATER MAINS.

The water mains of the City shall be under the exclusive control of the Department and no unauthorized person shall disturb, tap, change, obstruct or interfere with them in any manner

whatsoever. Extension of, or changes in, the water mains shall be made only by the direction of the City Commission.

('88 Code, Title II, Ch. 22, § 2.33) (Am. Ord. 572-10-06, passed 10-2-06)

§ 51.05 WATER MAIN EXTENSIONS.

(A) Any person desiring an extension of water mains shall petition the City Commission in writing; the petition shall be filed with the Clerk. The City Commission shall determine the desirability and necessity of such extension and, if the Commission shall deem it desirable and necessary, it may cause an estimate of the expense of such proposed extension to be submitted for its determination.

(B) The cost of water main extensions to the customer shall be in addition to a Capital Buy in Charge, as defined in Chapter 54, § 54.14.

(C) The City Manager shall set the cost of water main extensions subject to the approval of the City Commission.

('88 Code, Title II, Ch. 22, § 2.32(5)) (Am. Ord. 572-10-06, passed 10-2-06)

§ 51.06 SERVICE PIPE; REGULATIONS, PROHIBITIONS.

(A) All service pipe on either public or private property shall be laid on a solid bottom not less than six feet below the established grade measured to the top of the pipe. The location of the service pipe shall be approved in writing by the Department prior to installation.

(B) From the water main to the meter, all service pipe shall be Type K copper, not less than 1 inch in diameter. The curb box shall be set on a suitable foundation that will prevent settling. All service curb boxes shall be at least 1-inch diameter, extra heavy, round way stop and water type, placed approximately one foot inside the public right-of-way line.

(C) (1) A meter horn assembly must be placed on the service pipe just inside the building wall in a location not subject to flooding. This requirement shall apply to all new construction and to all residential meters at the time that a meter is replaced. The cost of the meter horn assembly for residential customers shall be borne by the City.

(2) Where a meter horn assembly or a downstream shut off valve does not exist, the owner shall cause a valve to be installed in a location approved by the City or shall allow the City to install the necessary meter horn assembly at the owner's expense. The work shall be done when the water meter is replaced or when the owner requests that water be shut off for internal water system repairs or upgrades.

(3) Existing valves shall be maintained in proper working order. The Department shall not be responsible for valves that fail to operate when needed.

(D) (1) The service pipe from the water main to the curb box shall be placed as designated by the Department. Service pipe from the main to the curb box, including the curb box, valves, and piping, shall be repaired and maintained by the Department, with 50% of service pipe repair cost charged to the property owner receiving water through the service pipe, and the charges shall be a lien against the property until paid.

(2) The service pipe from the curb box to and on the owner's property shall be repaired and maintained at the sole expense of the property owner.

(E) All service pipe on private property and all water pipe in all premises shall be installed by a licensed contractor, or plumber. Such contractor shall not interfere in any way with service pipes installed by the Department, and shall not turn water on or off at the curb box except for the purpose of testing his work, in which case the curb box shall be left in the same condition and position as he found it. Any plumber called upon to shut off water and drain pipes in any premises shall do so inside the building only. The license of any plumber violating the provisions of this division will be subject to revocation.

(F) Installation of all appurtenances, including but not limited to water service pipe, curb boxes, and customer isolation valves, shall be installed in accordance with the City of Big Rapids standard construction specifications, or as authorized in writing by the Department.

(G) City Water Department repair of service pipe in the public right-of-way involving rusted, corroded, broken, frozen, or otherwise inoperable service pipe shall be charged to the property owner

receiving water through the service pipe at 50% of the cost of the time and materials, and the charges shall be a lien against the property until paid. Service pipe outside the public right-of-way shall be repaired and maintained at the sole expense of the property owner.

('88 Code, Title II, Ch. 22, § 2.34) (Am. Ord. 476-02-01, passed 2-5-01; Am. Ord. 572-10-06, passed 10-2-06; Am. Ord. 692-01-16, passed 1-4-16)

§ 51.07 SERVICE CONNECTIONS; PERMIT REQUIRED.

(A) Before any connection shall be made to any water main, application for a permit must be made by the owner, or authorized agent, to the Department. Such application shall be made in the form and manner prescribed by the Department, and shall state the location of the property, the name of the owner, billing address and the name of the plumber or contractor employed to do the work. Such permit shall be granted on the express condition that the owner, for whose benefit the connection is made, shall on behalf of himself, his heirs, executors, administrators, or assigns, hold the City harmless for any loss or damage that may in any way be occasioned by the making of such connection.

(B) Except as provided in §§ 51.06(D) and (G), all service pipes, fittings, labor and connections now existing or hereafter installed under this chapter shall be paid for by the property owner for whose property such service is installed, and such charges shall be a lien against such property until paid. The cost to the property owner shall be as established by the Utility Schedule of Fees.

('88 Code, Title II, Ch. 22, § 2.35) (Am. Ord. 476-02-01, passed 2-5-01; Am. Ord. 572-10-06, passed 10-2-06; Am. Ord. 692-01-16, passed 1-4-16)

§ 51.08 METERS.

(A) Any owner or occupant of any premises using Department water shall pay for water at meter rates. In no case will water be supplied at rates other than as shown by the meter, except for temporary supply or as may be hereinafter provided.

(B) Residential meters of 5/8-inch size will be furnished by the Department without advance charge and are, and shall remain, the property of the Department and will at all times be under its control. All non-residential meters shall be paid for by the owner and shall be installed in a manner approved

by the Department. The Department may require an inspection of the installation before service begins. All nonresidential meters are and shall remain the property of the Department and will at all times be under its control.

(C) For ordinary domestic consumption of water, only a 5/8-inch meter, meter horn and remote reader will be furnished to new customers at Department expense. When application is made for a meter larger than 5/8 inch, the customer may select and shall pay for such meter. If a customer requests a change in meter size at some later date, the customer shall pay the full cost of replacement meter. The payment for a meter larger than a 5/8 inch meter is expected before delivery of the meter unless other payment arrangements have been approved in writing by the Treasurer's Office. In no case shall payment arrangements be delayed beyond the date when occupancy of the building is expected to occur.

(D) Meters and remote readers shall be set in an accessible location as approved by the Department. In no case shall a meter be set in an inaccessible location or other place where it cannot be readily reached by City staff. In all cases where the premises contain no basement or cellar, the meter shall be installed in a location approved by the Department. The Department will notify customers where inaccessible meters are known to exist and provide a compliance schedule for relocation of the meter, which schedule shall provide 60 days for the relocation of the meter. The Department, at its sole discretion, may allow an alternate schedule. Meters located in inaccessible locations that come to the attention of the Department at a later date shall be treated in a like manner. The City shall provide the replacement 5/8 inch meter, meter horn and remote reader at no charge to the residential customer. Any work performed by City staff shall be charged to the owner on a time and materials basis. Owners that fail to comply with the compliance schedule shall have their water service terminated. All other customers shall be charged the current rates for the materials used by City staff.

(E) Meters will be sealed by the Department and no one except an authorized employee of the Department shall break such seals. No person other than an authorized employee of the Department shall change the location of, alter or interfere in any way with any meter.

(F) Where replacements, repairs, or adjustments of the meter are made necessary by any act, neglect, or carelessness of the owner or occupant

of any premises, the expense to the Department caused thereby shall be charged against and collected from the owner or occupant of the premises on a time and material basis.

(G) (1) The owner of any premises where a meter is installed will be held responsible for its care and protection from freezing, and from injury or interference by any person. In case of damage to the meter or in case of its stoppage or defective condition caused by the owner or occupant, the owner or occupant shall give immediate notice to the Department. All frozen or damaged meters shall be replaced by the City on a time and material basis and shall be paid by the owner.

(2) The owner shall be responsible for damage to the remote reader and/or the wiring from the meter to the remote reader. Any repairs found to be necessary to restore the proper working function of the reader and/or the wiring shall be billed to the owner on a time and material basis.

(H) All water used on any premises must pass through the meter. Any bypass or connection between the meter and the main is prohibited unless approved in writing by the Department.

(I) Secondary meters may be installed for purposes including but not limited to sprinkling, sub-metering and independent metering in a manner and utilizing a brand approved by the Department. All maintenance of secondary meters shall be the responsibility of the owner. Existing secondary metering is subject to Department review. A schedule will be developed to remove existing secondary meters that are not accepted by the Department.

(J) If any meter is not working properly or fails to register, the customer will be charged at the average monthly consumption rate as shown by the meter when registering over 12 months, or any shorter period if 12 months of service history is not available. The accuracy of the meter on any premises will be tested by the Department upon written request of the owner who shall pay a fee specified in the Utility Schedule of Fees, adopted by the City Commission to cover the cost of the test. If on such test, the meter shall be found to register over 3% more water than actually passes through it, another meter will be substituted therefore, and the fee will be refunded to the owner of the premises, and the water bill may be adjusted in accordance with Section 54.13.

('88 Code, Title II, Ch. 22, § 2.36) (Am. Ord. 476-02-01, passed 2-5-01)

(K) Any person who tampers with a water meter, and any customer or owner of property served by the City who allows such tampering to take place, shall be responsible for a municipal civil infraction. In addition, the customer may be subject to termination of water service unless the customer takes immediate steps to prevent further tampering.

(L) (1) The City reserves the right to require that a meter be placed at the property line when, in the sole opinion of the Department, such installation is in the best interest of the City. Maintenance of the water lines on private property shall be the sole responsibility of the owner. The owner of the on-site water system shall at all times maintain the internal plumbing in a manner that does not subject the on-site system and the City water system to potential cross connections. If, in the sole opinion of the Department, the loss of water represents a threat to the public health, safety and welfare of the water system, the Department may issue written notice to the customer requiring the immediate repair of the customer's internal plumbing. If repairs are not undertaken within the time specified by the Department, the water may be turned off in order to protect the public health, safety and welfare of the remaining customers.

(2) Before service is restored, the owner shall install an approved backflow prevention device on the line entering the property. Such device shall be installed immediately downstream from the meter. Both the meter and the backflow prevention device shall be installed in an accessible, above grade structure that is protected from freezing. The property owner shall obtain the written approval of the Department before installing the meter and the backflow prevention device.

(M) If requested, the City may provide a meter to a customer not served by the public water system, where such meter is to be used to establish the volume of waste water discharged into the sanitary sewer system. Any such meter shall be obtained from the City in accordance with the Utility Schedule of Fees, shall remain the property of the City, shall be installed by the customer in full conformance with the requirements of this section, and shall be subject to all of the terms, conditions and enforcement provisions of this chapter.

(Ord. 476-02-01, passed 2-5-01)

(N) (1) All water meters shall be designed for remote read. All wiring for the remote read shall be installed in conduit from the meter to the exterior wall. Conduit for all non-residential meters shall include a suitable pull wire. Conduit shall be installed whenever remodeling is done for a non-residential customer.

(2) Wiring for remote read meters shall be installed in all new construction before meters are installed and service begins. The Department shall be contacted so that the proposed location of the meter and remote reader can be identified and approved. The owner shall install the meter and remote reader in the location specified by the Department staff. The Department may install the remote reader, conduit and wiring, and shall bill the owner on a time and materials basis. Service shall not be allowed until the meter and remote reader installation have been approved by the Department.

(O) A curb box, located at the property line, shall be provided for each residential meter.

(Ord. 572-10-06, passed 10-2-06)

§ 51.09 USE OF WATER.

(A) Whenever new service pipes are installed in any premises the curb box shall be left closed, and will thereafter be opened by the Department only upon request of the owner or his agent. The holder of a permit for temporary use of water shall notify the Department upon the completion of his work so that the water may be shut off.

(B) No person shall take or use Department water from premises other than his own, and no person shall sell or distribute Department water from his own premises unless prior written approval of the Department has been obtained. Water shall be taken and used only through service pipes under the supervision of the Department, and no connection through which water may pass from one property to another shall exist even though the ownership of both properties may be the same, except in such special cases when allowed by the City Manager, with the consent and approval of the City Commission.

(C) Excessive or unnecessary use or waste of water, whether caused by carelessness or by defective or leaking plumbing or fixtures is prohibited. For disregard, or repeated violation, of this provision, the Department may turn off the water. If, in the sole opinion of the Department, the loss of water represents a threat to the public health, safety and welfare of the water system, the Department may issue written notice to the owner requiring the immediate repair of the owner's internal plumbing. If repairs are not undertaken within the time specified by the Department, the water may be turned off in order to protect the public health, safety and welfare of the remaining customers.

(D) (1) Whenever the water has been turned off by the Department for any reason, no person except an authorized employee of the Department shall turn it on again. Any person violating this provision shall be subject to the penalties herein provided. The water may be shut off in which case the owner shall, before it is turned on again, pay in advance the appropriate cost according to the Utility Schedule of Fees.

(2) The charge for the Department to turn on or shut off the water during regular office hours, which are defined as 8:00 AM until 5:00 PM, local time Monday through Friday, excluding City approved holidays, or during non-office hours shall be included in the Utility Schedule of Fees, established by the City Commission.

('88 Code, Title II, Ch. 22, § 2.37(1) - (5)) (Am. Ord. 256-12-88, passed 12-19-88 ; Am. Ord. 476-02-01, passed 2-5-01)

(E) Any temporary use of water including but not limited to construction, bulk withdrawal or any other use shall be based on a written request submitted by the user and approved by the Department. The written request shall include a description of the steps to be taken to protect the public water supply from freezing or backflow. (Am. Ord. 572-10-06, passed 10-2-06)

§ 51.10 PUBLIC DRINKING FOUNTAINS AND THE LIKE.

Public drinking fountains shall be used for drinking purposes only, unless such fountains have been provided with a spigot specifically designed for other use.

('88 Code, Title II, Ch. 22, § 2.37(6)) (Am. Ord. 476-02-01, passed 2-5-01; Am. Ord. 572-10-06, passed 10-2-06) Penalty, see § 51.99

§ 51.11 [RESERVED].

§ 51.12 UNLAWFUL OBSTRUCTION OR INTERFERENCE WITH WATER SYSTEM.

(A) No person shall obstruct or interfere with any curb box, valve, meter or meter box, or fixture connected thereto by placing in, on or about it, landscaping, pavement, building materials, rubbish, soil, snow or other hindrance to easy and free access thereto.

(B) Shall it become necessary for the Department to take action to remove any obstructions or otherwise restore the function of any curb box, valve, meter or meter box, or fixture connected thereto, due to negligence of the owner or customer, the cost of such work shall be charged to the property owner on a time and materials basis.

('88 Code, Title II, Ch. 22, § 2.37(8)) (Am. Ord. 476-02-01, passed 2-5-01; Am. Ord. 572-10-06, passed 10-2-06) Penalty, see § 51.99

§ 51.13 INSPECTIONS.

(A) An authorized employee of the Department shall have free access at all reasonable hours to any premises supplied with Department water for the purpose of making an inspection there-of, including but not limited to the examination of the water service line, water meter, water meter assembly, backflow prevention device and the remaining water system which shall include the entire water supply and plumbing system on the premises. No person shall refuse to admit any authorized inspector or employee of the Department to any premises for such purpose. In the event that the owner or occupant of the property is not available at the time of the inspection, a notice will be left at the property notifying the owner or occupant of the need for an inspection. The owner or occupant shall provide a time and date for the follow-up visit, within three working days of the date of the Department's initial visit.

(B) (1) An authorized employee of the Department, at the discretion of the Department, shall inspect any new water service, new or rebuilt water meter installation, or backflow prevention device before water service is turned on. The owner or occupant shall notify the Department when such work has been completed and arrange for an inspection, which inspection shall be conducted as soon as reasonably possible. All such inspections are to be conducted during the hours of 7:30 AM and 3:00 PM, Monday through Friday, unless other arrangements have been approved by the Department.

(2) Any owner or occupant that refuses admittance to any authorized employee, or hinders, prevents or frustrates the inspection, or fails to provide a time and date for the follow-up inspection within the three day time period specified above, or fails to comply with the inspection notification requirements for a new water service, new or rebuilt water meter or backflow prevention device, shall be subject to termination of water service. ('88 Code, Title II, Ch. 22, § 2.37(9)) (Am. Ord. 572-10-06, passed 10-2-06) Penalty, see § 51.99

§ 51.14 EMERGENCY REGULATIONS.

Whenever the City Manager shall determine that the amount of water from its distribution system has reached such a volume that unless restricted the public health, safety and general welfare is likely to be endangered, he shall prescribe rules and regulations to conserve the water supply during such an emergency. It shall be unlawful for any person to violate any such rule and regulation provided that before any such rule and regulation shall become effective it shall be published once in a newspaper in general circulation in the City. ('88 Code, Title II, Ch. 22, § 2.38) (Am. Ord. 572-10-06, passed 10-2-06)

§ 51.15 SPRINKLING AND FIRE PROTECTION.

(A) Any non-essential water use is strictly prohibited during an alarm of fire.

(B) Whenever pipes are provided for fire protection on any premises or whenever hose connections for fire apparatus are provided on any pipe, each connection or opening on said pipes shall have not less than 25 feet of fire hose constantly attached thereto, and no water shall be taken through such openings or hose for any purpose other than for extinguishing fires, except for the purpose of testing

such fire equipment. Any such test must be conducted under a special permit and under the supervision of the Department.

('88 Code, Title II, Ch. 22, § 2.39) (Am. Ord. 572-10-06, passed 10-2-06)

§ 51.16 CROSS-CONNECTIONS.

The City adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality (MDEQ), being R 325.11401 to, and including, R 325.11407 of the Safe Drinking Water Act, Act 399, Public Acts 1976, State of Michigan.

(A) It shall be the duty of the City to inspect all properties served by the public water supply where cross-connections with the public water supply is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the City and as approved by the Michigan Department of Environmental Quality (MDEQ).

(B) Representatives of the City shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the City for the purpose of inspecting the internal plumbing system or systems thereof for cross-connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the internal plumbing 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.

(C) The City is authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross-connection or cross-connections have been eliminated in compliance with the provisions of this section.

(D) The potable water supply made available on the properties served by the public water supply shall be protected from the possible contamination as specified by this section and by the State Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

<p>WATER UNSAFE FOR DRINKING</p>

(E) This section does not supersede the State Plumbing Code, but is supplementary to it. ('88 Code, Title II, Ch. 22, § 2.40) (Ord. 146, passed 12-4-78; Am. Ord. 572-10-06, passed 10-2-06) Penalty, see § 51.99

§ 51.17 WATER UTILITY SERVICE OUTSIDE THE CORPORATE LIMITS.

(A) The City may provide but shall not be compelled to provide, utility service outside its corporate limits. Where service is provided outside the corporate limits, it shall be by franchise agreement.

(B) Infrastructure necessary to extend, install, or otherwise provide service outside the corporate limits shall be constructed according to City specifications. Ownership, operation and maintenance of the mains installed in townships shall be guided by contracts between the agencies.

(C) Water rates charged to township customers shall be the same as those charged to non-property tax paying customers, currently described as the institutional rate. (Ord. 445-4-99, passed 4-5-99; Am. Ord. 476-02-01, passed 2-5-01; Am. Ord. 572-10-06, passed 10-2-06)

§ 51.99 PENALTY.

(A) Any person who violates a provision of this chapter, or any written order of the Department shall be responsible for a municipal civil infraction, with penalties as specified in § 10.97(E).

(B) The City Engineer/Utilities Director and the Public Works Director are authorized to issue municipal civil infraction citations for violations of this chapter, and for violations of any written order of the Department.

(C) The City is authorized to (a) shut off water service, (b) recover costs, or charge the expense of shutting off and restoring service to the premises, and (c) impose added charges for water usage at the

highest one month usage rate at the premises in the preceding one year of service for water usage on which there is no meter reading.

(D) After notice in writing of a violation of any provision of this chapter, or a written order of the Department, and a reasonable time to comply, the Department can shut off service, for reasons including, but not limited to, the following circumstances: (a) the shut off is missing, (b) the shut off is broken, (c) the shut off is inaccessible, (d) the customer refuses access to the premises to repair or replace a meter, (e) the customer refuses to repair the building, which allows the meter to freeze, or (f) the customer does not make repairs to leaking water lines within the time specified in a written Department directive. All costs to replace a meter shall be charged to the owner.

(E) The owner is responsible for all repairs to their service line, from the water main to the structure. All repairs of the service line from the water main to the curb box shall be made under the direction of the Department. When the repair occurs on private property, the owner is responsible for the repair. If, however, the repair is within the public right-of-way, the City will schedule the work and bill the owner, as provided in the Utility Schedule of Fees approved by the City Commission. If the service line freezes, the method of thawing the service line must be approved by the Department. The entire cost of thawing the service line shall be the sole responsibility of the owner. In the event of an administrative shut off because of one or more violations of the ordinance, an additional fee covering the additional staff time shall be assessed in accordance with the Utility Schedule of Fees approved by the City Commission.

(F) The City Commission shall establish a Utility Schedule of Fees that includes charges it deems appropriate to recover the cost incurred by the Water Department, Treasurer's Office, or other City Staff, for repair or replacement of water meters, water shut-off and turn-ons, collection of delinquent bills, issuance of Utility Invoices and/or such other staff efforts as are required to implement this chapter, and operate and maintain the water system.

(G) The City reserves the right to discontinue temporarily the water supply to any of the water mains or pipelines in the City, Big Rapids Township, or Green Township due to acts of God or whenever it is necessary for the purposes of testing, repairing or replacing water mains, meters or any other of its facilities serving the water system. No claim for

damages for such discontinuance shall be made against the City, its employees, agents or assigns. (Ord. 476-02-01, passed 2-5-01; Am. Ord. 572-10-0610-2-06)

CHAPTER 52: SEWER USE REGULATIONS

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GENERAL PROVISIONS

§ 52.01 PURPOSE AND OBJECTIVES.

(A) This chapter sets forth uniform requirements for direct and indirect residential and other nonsignificant contributors into the wastewater collection and treatment system for the City and enables the City to comply with all applicable state and federal laws required by the Clean Water Act, as amended, 33 USC 1251, et seq. All contributors classified as "significant industrial users," as defined in § 52.03 will fall under the rules and regulations of the wastewater pretreatment regulations set forth in Chapter 53.

(B) The objectives of this chapter are:

(1) To require use of the publicly owned treatment works (POTW);

(2) To provide for the equitable distribution of the cost of the municipal wastewater system;

(3) To control or prevent the introduction of pollutants into the municipal wastewater system which may interfere with the normal operation of the system or contaminate the resulting municipal sludge;

(4) To control or prevent the introduction of pollutants into the municipal wastewater system which do not receive adequate treatment, and which may pass through the POTW into receiving waters or the atmosphere or otherwise be incompatible with the system;

(5) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;

(6) To control or prevent discharges or potential discharges to systems or areas under the jurisdiction of this municipality that may impair the environment;

(7) To control or prevent the introduction of pollutants into the POTW which may cause the treatment plant to violate its NPDES Discharge Permit;

(8) To control or prevent the introduction of pollutants into the POTW which may pose a health threat to POTW workers.
(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.02 APPLICATION.

This chapter shall apply to all users of the POTW whether inside or outside the City. Except as otherwise provided herein, the City Engineer/Utilities Director or the Director of Public Works, or their designate, shall administer, implement and enforce the provisions of this chapter.
(Ord. 311-3-92, passed 3-16-92 ; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.03 DEFINITIONS.

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

ACT or **"THE ACT"**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et. seq.

APPROVAL AUTHORITY. The Michigan Department of Environmental Quality (MDEQ) or the U.S. Environmental Protection Agency (EPA).

BIOSOLIDS. The accumulated solids separated from liquids, such as water or wastewater, during processing.

BOD 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 terms of weight and concentration (milligrams per liter — mg/l).

BUILDING DRAIN. That part of the lowest horizontal piping of a sanitary drainage system which receives the discharge from soil, waste, and other 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 POTW.

CITY. The City of Big Rapids, Michigan, or its Control Authority.

CITY COMMISSION. The City Commission of the City.

COD or **CHEMICAL OXYGEN DEMAND**. The oxygen consuming capacity of inorganic and organic matter present in wastewater.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

COMMERCIAL USER. Any user whose premises are used to offer services and/or products including but not limited to such things as gasoline stations, restaurants, hotels, motels, warehouses, private clubs, theaters, retail and wholesale stores.

CONTROL AUTHORITY. The term shall refer to the "Approval Authority" defined hereinabove; or the City Engineer/Utilities Director if the City has an approved Pretreatment Program under the provisions of 40 CFR 403.11.

CONVENTIONAL POLLUTANTS. Those pollutants that are compatible with the existing treatment works, including but not limited to BOD, total suspended solids, phosphorus, and pH.

DEBT SERVICE ALLOCATION. The charge levied to all users for the purpose of paying back any bonds or loans used to finance construction of facilities associated with the system.

DEPARTMENT. The Office of the City Engineer/Utilities Director, and/or the Office of the City of Big Rapids Department of Public Works, or their designate.

DIRECTOR. The City Engineer/Utilities Director, or the City of Big Rapids Public Works Director or their designate.

FATS, OIL, AND GREASE CONTROL DEVICES (FOG CONTROL DEVICES). Any on site devices by which fats, oil, grease, or solvent extractables are removed from wastewater prior to discharge into the sanitary sewer, including but not limited to grease traps and interceptors.

FOOD SERVICE ESTABLISHMENTS (FSEs). Establishments that prepare food for consumption in a dining, carry-out, or institutional setting, or that prepare food for sale on the premises such as a bakery, grocery or convenience store deli.

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

GOVERNMENTAL USER. Any Federal, State and local government user of the City system.

GRAB SAMPLE. A random sewage sample.

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

INDIRECT DISCHARGE or DISCHARGE. The introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

INDUSTRIAL USER. Any person who introduces pollutants into a POTW from any nondomestic source regulated under the Act, state law or local ordinance.

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

INSTITUTIONAL USER. A school, hospital, church, nursing home, or like user.

INTERFERENCE. A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes (use or disposal).

NATIONAL CATEGORICAL PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

NPDES PERMIT or NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT. According to the Federal Water Pollution Control Act, as amended by Public Law 92-500, it prohibits any person from discharging pollutants into a waterway from a point source unless the discharge is authorized by a permit issued either by the U.S. Environmental Protection Agency or by an approved state agency.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD. Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

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

OPERATION AND MAINTENANCE or O&M. All costs, direct and indirect, not including debt service, but inclusive of expenditures attributable to administration, equipment replacement and treatment and collection of wastewater necessary to insure adequate treatment and collection on a continuing basis in conformance with all applicable regulations.

O,M&R COSTS. The charge levied to all users for operation, maintenance, and replacement and customer related administrative costs associated with the system.

PASS THROUGH. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes or may cause a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERSON. Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any legal entity, or their legal representatives, agent or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

POINT OF DISCHARGE. Any discernible, confined and discrete conveyance or vessel from which pollutants are or may be discharged into a public waterway or public sewer system.

PRETREATMENT STANDARD or STANDARD. Any local, state or federal regulation containing pollutant discharge limits. This term includes local limits, prohibitive discharge limits including those promulgated under 40 CFR 403.5, and categorical pretreatment standards.

PRIORITY POLLUTANT. The EPA has determined that there are 127 toxic compounds that can reasonably be expected in the discharges from the 34 categorical industries. These are labeled priority pollutants. Each industrial category by nature of their common processes can be expected to discharge certain compounds from the list of 127.

PROHIBITED DISCHARGES. Prohibited discharges include all discharges which may interfere with or pass through the treatment plant operations. They include, but are not limited to the priority pollutants, hazardous materials, and certain characteristics of the water which may interfere with system. They are defined as follows:

(1) Chemical compounds which may interfere with or pass through the treatment process.

(2) Materials which may create a fire or explosion hazard in the sewers or treatment works, or which may release poisonous gasses.

(3) Materials which may obstruct the flow in the sewage or treatment system.

(4) Materials which may change the pH to highly acidic or alkaline.

(5) Water which may increase the treatment influent to above 104° F. (40° C.).

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

PUBLICLY OWNED TREATMENT WORKS or POTW. A treatment works as defined by Section 212 of the Act, (33 USC 1292) which is owned in this instance by the City. This includes any sewer that conveys wastewater to the POTW treatment plant. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the City who are users of the POTW.

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

REPLACEMENT COSTS. Expenditures during the service life of the system to replace equipment, appurtenances and accessories necessary to maintain the intended performance of the system.

RESIDENTIAL USER. A user whose waste normally emanates from residential living units and results from the day-to-day activities usually considered to be carried on in a domicile.

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

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

SHALL. Mandatory. **MAY** is permissive.

SIGNIFICANT INDUSTRIAL USER.

(1) Except as provided in division (2) of this definition, the term "Significant industrial user" means:

(a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and

(b) Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the POTW on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(2) Upon a finding that an industrial user meeting the criteria in division (1)(b) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the POTW may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

SIGNIFICANT NONCOMPLIANCE.

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(2) **TECHNICAL REVIEW CRITERIA** or **TRC VIOLATIONS**, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils, and grease, and 1.2 for all other pollutants except pH).

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, or may cause, alone or in combination with other discharges, interference or pass through the POTW and has the potential to endanger the health of POTW personnel or the general public.

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under § 53.108 to halt or prevent such a discharge.

(5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules.

(7) Failure to accurately report noncompliance.

(8) Any other violation or group of violations which the Control Authority determines may adversely affect the operation or implementation of the local pretreatment program.

SLUG. Any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

STANDARD INDUSTRIAL CLASSIFICATION. A classification pursuant to the most recent version of the "Standard Industrial Classification Manual" issued by the Executive Office of the President, Office of Management and Budget.

STATE. The State of Michigan.

STORM SEWER or **STORM DRAIN.** A sewer that carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

SUPERINTENDENT. The Superintendent shall be appointed by the City Engineer/Utilities Director, subject to the approval of the City Manager, and shall meet the minimum requirements established by the Michigan Department of Environmental Quality. All references in this code to the **SUPERINTENDENT** shall include the Superintendent's designees.

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 the wastewater treatment process.

SURCHARGE. An extra charge to cover the cost of treating conventional pollutants in excess of domestic background concentrations.

TOXIC POLLUTANT. Any pollutant or combination of pollutants which is or may be harmful to public health or environment including those listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of the CWA 307(a) or other Acts, or included in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality or other Acts.

TREATMENT PLANT. That portion of the POTW designed to provide treatment to wastewater.

UNITS OF MEASURE. Concentration of pollutants used to report the results of water or wastewater analysis, and expressed as:

Milligram per liter, mg/l

Microgram per liter, ug/l

Nanogram per liter, ng/l

U.S. ENVIRONMENTAL PROTECTION AGENCY or **USEPA.** The U.S. Environmental Protection Agency, or the Administrator or other duly authorized official of said agency.

USER. Any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

USER CHARGE. The charge levied on users of the system for the cost of operation and maintenance of such work pursuant to Section 204b of P.L. 92-500, which charge shall also include cost of replacement.

WASTEWATER. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WATERS OF THE STATE. Waters of the State include:

(1) Both surfaces and underground waters within the boundaries of this State subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within this State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and

(2) The flood plain free-flowing waters determined by the Department of Natural Resources on the basis of 100-year flood frequency.

(3) Any other waters specified by State Law.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02; Am. Ord. 700-09-16, passed 9-6-16)

§ 52.04 ABBREVIATIONS.

For the purpose of this chapter, the following abbreviations shall apply:

ASTM	American Society for Testing Materials
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
CWA	Clean Water Act
DSS	Domestic Sewage Study
U.S. EPA	United States Environmental Protection Agency
IPP	Industrial Pretreatment Program
MDEQ	Michigan Department of Environmental Quality
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O&M	Operations & Maintenance
O, M& R	Operation, Maintenance and Replacement
PIRT	Pretreatment Implementation Review Taskforce
PIPP	Pollution Incidence Prevention Program
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act, 42 USC 6901, et. seq.
TSS	Total Suspended Solids (sometimes shortened to Suspended Solids - SS)
USC	United States Code
WEA	Water Environment Association

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.05 USER CLASSIFICATION.

(A) The recipients of wastewater treatment services will be assigned to one of the following classes:

(1) *Residential.* Any user whose waste normally emanates from residential living units and results from the day-to-day activities usually considered to be carried on in a domicile.

(2) *Commercial.* Any user whose premises are used to offer services and/or products such as gasoline stations, restaurants, hotels, motels, warehouses, private clubs, theaters, retail and wholesale stores, or like user.

(3) *Institutional.* Any school, hospital, church, nursing home or like user.

(4) *Industrial.* Any user who introduces pollutants into a POTW from any nondomestic source regulated under the Act, State law or local ordinance.

(5) *Governmental.* Any Federal, State and local government user of the City system.

(6) *Food service establishment.* Any commercial or institutional user that prepares or serves food on site.

(B) The user may appeal his or her assigned classification by submitting a written appeal to the City 30 days in advance of a regularly scheduled City meeting at which time the appeal will be heard. (Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02; Am. Ord. 700-09-16, passed 9-6-16)

USE OF PUBLIC SEWERS**§ 52.15 PROTECTION FROM DAMAGE OR UNLAWFUL INTERFERENCE.**

(A) No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the municipal sewage works. Such conduct shall be considered disorderly conduct and a violation of the provisions of this section subjecting such person to the enforcement actions and penalties as provided in the Wastewater Pretreatment Ordinance (Chapter 53).

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.16 UNLAWFUL DISCHARGES.

(A) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the City, any human or animal excrement, garbage, or other objectionable waste.

(B) It shall be unlawful to discharge or cause to be discharged into any storm sewer, natural water course, or artificial water course, any sewage or other polluted waters as heretofore defined; or to increase an approved use except upon special agreement or arrangement with the City and in accordance with the rules and procedures or appropriate agencies of the State of Michigan.

(C) No person shall discharge or cause to be discharged any waters or sewage into the POTW that may cause violation of the City's NPDES Permit.

(D) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(E) Any discharge, including storm water, industrial cooling water and all other unpolluted drainage, into the surface waters of the state is prohibited unless the discharger has first applied for and received a valid National Pollutant Discharge Elimination System (NPDES) permit from the Michigan Department of Environmental Quality as authorized by the Clean Water Act, as amended and defined by 40 CFR, Parts 122, 123 and 124.

(F) No discharger shall contribute or cause to be contributed, directly or indirectly any pollutant(s) which may pass through or cause interference with the operation or performance of the POTW. In addition to the above general discharge prohibition, compliance with specific prohibitions is required by City of Big Rapids Wastewater Pretreatment Ordinance (Chapter 53).

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.17 DUTIES OF SUPERINTENDENT.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in the Wastewater Pretreatment Ordinance (Chapter 53) and which in the judgement of the Superintendent, may have a

deleterious effect in any way upon the sewage works, processes, equipment, or receiving waters, or which otherwise create or may create a hazard to life or constitute a public nuisance, the Superintendent may:

(A) Reject the waste.

(B) Require pretreatment to an acceptable condition for discharge to the public sewers.

(C) Require control over the quantities and rates of discharge.

(D) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of this section.

(E) Users with grease interceptors shall submit grease interceptor cleaning and disposal manifests on an annual basis to the Superintendent, at a minimum.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02; Am. Ord. 700-09-16, passed 9-6-16)

§ 52.18 PRETREATMENT.

(A) If pretreatment is required by the Superintendent, the owner shall provide, at his or her expense, such treatment facilities to meet all state, local, and federal regulations including those set forth in this chapter. The pretreatment provisions included in this section are to assure that the user will consistently provide for the reduction in the amount of a pollutant in the effluent to a less toxic or harmless state.

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and the requirements of all applicable codes, ordinances and laws.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.19 GREASE, OIL AND SAND INTERCEPTORS.

(A) Grease, oil and sand interceptors or similarly effective fats, oil and grease control devices shall be provided by and for all food service establishments, and for any other sewer user when, in the opinion of the Superintendent, they are

necessary for the proper handling of liquid wastes which may contain grease in excessive amounts, or any flammable wastes, sand or harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units or FSEs that prove to the Superintendent, through procedures outlined in division (C)(8) below, that the user's discharge of fats, oils and grease into the sanitary sewer is less than the domestic background concentration which is updated annually in the Wastewater User Charge Report as the "Domestic Background Wastewater Strength" table. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning by the owner and inspection by the City.

(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, watertight and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

(C) Where installed, all grease, oil and sand interceptors shall be cleaned and maintained by the owner, at his or her expense, in continuously efficient operation.

(1) Any user required to install and maintain an interceptor (trap) of any kind shall maintain and clean out the interceptor and shall document and keep:

(a) A maintenance schedule;

(b) The identity of the person(s) who cleaned and maintained the interceptor;

(c) The method and location of grease, oil and sand disposal.

(d) The documentation required by this section shall be available for review by the Superintendent and copies shall be provided to the Superintendent upon request.

(2) Problems with or damage to an interceptor/trap shall be reported immediately to the owner and the Superintendent and repaired or corrected.

(3) No interceptor/trap clean out material shall be discharged into a sewer.

(4) No bacteria or enzyme products shall be used in the maintenance of interceptors/traps without prior written approval from the Superintendent.

(5) Users shall implement best practices of grease management to minimize discharge of food grease to the POTW.

(a) Under sink grease traps shall be cleaned weekly, or more or less frequently as approved in writing by the Superintendent.

(b) Clean outs of all other interceptor/traps shall be scheduled and conducted so the interceptor/trap does not exceed 25% solids content (including both the top and bottom layers of solids) and there is no visible discharge of grease or oil.

(c) The clean out process shall remove the entire grease mat, liquids, sludge, and solids from screens, baffles, air-relief chambers, and wash down the interior walls.

(6) The interceptor/trap is subject to inspection by the Superintendent at any time.

(7) The Superintendent will maintain a list of all users with FOG control devices. All FSEs and other non-domestic users required to have FOG control devices shall submit to the Superintendent documentation describing the size and location of the control device installed. Each FOG device user may be charged a monthly fee to cover costs associated with the periodic evaluation and review. Users that do not maintain and produce monthly records of the FOG device may be fined for noncompliance in accordance with § 53.107.

(8) *FOG control devices.*

(a) FSE facilities shall reduce the discharge of fats, oils and grease to the sanitary sewer to less than the domestic background concentration, or install an FOG control device approved by the Superintendent. FSE facilities must have an approved sampling manhole and must, at their own expense, conduct a random grab sample supervised by the Superintendent once a week for four weeks, or otherwise at the discretion of the Superintendent, to prove discharge of fats, oils and grease to the sanitary sewer is less than the domestic background concentration. FSEs that prove to the Superintendent that the user's discharge of fats, oils and grease into the sanitary sewer is less than the domestic background concentration will not be

required to install a FOG control device and shall not be surcharged for fats, oils and grease.

(b) A grease trap generally is used for small to medium volume establishments such as fast food restaurants or full service restaurants (generally serving less than 400 meals per day). A grease trap is a small reservoir built into the sewer line close to the source of grease production. The reservoir contains baffles which retain the wastewater long enough for grease to congeal and rise to the surface. The accumulated grease is then removed from the trap for proper disposal, reducing the grease entering the sanitary sewer system.

(c) Interceptors usually are used for high volume full service restaurants (generally serving more than 400 meals per day) or large institutional food service production such as hotels, hospitals and schools. An interceptor is typically a vault (500 to 750 gallons) that is located on the exterior of the building. The vault contains two chambers with 90-degree grease retention fittings and additional grease is collected as the wastewater cools and grease congeals on the surface of the water. This grease is then removed from the interceptor for proper disposal.

(9) *Best FOG management practices.*

(a) Best FOG management practices should be employed to decrease the amount of FOG discharged from FSEs. The use of best management practices can contribute to a financial benefit through a reduction in grease interceptor maintenance frequency and overall FOG discharge to the sanitary sewer system.

(b) Suggested best management practices for food service establishments are posted on the City website.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02; Am. Ord. 700-09-16, passed 9-6-16) Penalty, see § 52.99

§ 52.20 SIGNIFICANT INDUSTRIAL AND COMMERCIAL USERS.

Significant industrial users and all industrial/commercial users with the potential to discharge toxic substances or prohibited pollutants shall provide protection from accidental discharge of prohibited materials or other substances regulated by prevention programs as directed by §§ 53.024 and 53.025.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.21 MONITORING FACILITIES.

(A) Where preliminary treatment or flow equalization facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the owner's expense.

(B) When required by the City, the owner of any property serviced by a building sewer shall install a suitable monitoring facility for the purposes of inspection, sampling and flow measurement as called for in §§ 53.085 through 53.088.

(C) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the procedures found in 40 CFR Part 136 at the control manhole provided for, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(D) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analysis involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether grab sample or samples should be taken. Normally, but not always, BOD and TSS analysis are obtained from 24-hour composites of all outfalls whereas pH's are

determined from periodic grab samples.
(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.22 SPECIAL AGREEMENTS WITH CITY.

There shall be no agreement between the City and an industrial concern that would allow any waiver of Federal prohibited discharge standards or categorical pretreatment standards except under the mechanisms specified in the General Pretreatment Standards Regulations. Special agreement or arrangements between the City and industrial concern falling within the mechanisms specified in the General Pretreatment Standards Regulations may be made whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment of a surcharge. The strength of such waste shall be determined by composite sampling at the owner's expense over a period of time sufficient to generate a representative sample. Surcharges will be assessed based on a prorated share of the annual costs of operation and maintenance associated with the treatment and handling of a substance, multiplied by the ratio of weight of excess substance over the normal weight of the substance treated annually.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.23 AGREEMENTS OR CONTRACTS WITH OTHER GOVERNMENTAL UNITS.

The provisions of this chapter shall be applicable to all sewers and drains which are connected to or become a part of the City's sewage works through agreements or contracts with areas or governmental units beyond the City limits. Such areas or governmental units shall provide for the administration of the permits and inspections required by the City.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.24 PRIVIES, CESSPOOLS AND THE LIKE RESTRICTED.

Except as hereinafter provided, it shall be unlawful to construct or maintain within the City of Big Rapids any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.25 TOILET FACILITIES AND CONNECTIONS REQUIRED.

(A) The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer or storm sewer of the City, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper publicly owned sanitary sewer, and also to make such connections to storm sewers as are necessary in accordance with the provisions of The Stormwater Control and Management Ordinance (Chapter 55). The City may require any such owner, pursuant to the authority conferred upon it by law or ordinance, to make such installation or connections.

(B) For purposes of this section, a publicly owned sanitary sewer shall be deemed to be available if it is located within 200 feet of the property line closest to the sewer. For parcels that are more than 200 feet in width, the publicly owned sanitary sewer shall be deemed to be available if the distance between the closest point of the publicly owned sanitary sewer and the building is 200 feet, or less.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.26 INFORMATION AND SPECIAL RESTRICTIONS FOR CERTAIN USERS.

The Superintendent or Director may require each person who applies for or receives any sewer service, and through the nature of the enterprise may create a potential problem, to file the material listed below:

(A) A written statement setting forth the nature of the enterprise, the source and amount of water used, the amount of water to be discharged, with its present or expected bacterial, physical, chemical, radioactive, or other pertinent characteristics of wastes.

(B) A plan map of the building, works, or complex, with each outfall to the surface waters, the sanitary sewer, storm sewer, natural water course, or underground waters noted, described, and the waste stream identified.

(C) A sample test, and report with the Superintendent and appropriate State agencies on the appropriate characteristics of wastes on a schedule, at locations, and according to method approved by the Superintendent.

(D) A plan to place waste treatment facilities, process facilities, waste streams, or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise such facilities.

(E) A report on raw materials entering the process or support systems, intermediate materials, final products, and waste byproducts as those factors may affect waste control.

(F) Maintained records and reports on the final disposal of specific liquid, solid, sludges, oils, radioactive materials, solvents, or other wastes.

(G) Any report on alteration of or intent to alter an industrial process so as to include or negate a process waste or potential waste, provided, however, said alteration shall be noticed in writing to the Superintendent, who shall approve or deny such changes in writing before said alterations begin.

(H) All industrial users as described herein are required to complete and file with the City a Wastewater Contribution Permit Application as prescribed by the City of Big Rapids Wastewater Pretreatment Ordinance (Chapter 55). The City will only issue Wastewater Contribution Permits to those users that are deemed to be significant industrial users, also as defined herein.
(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

PRIVATE SEWAGE DISPOSAL

§ 52.35 PRIVATE SEWAGE DISPOSAL CONNECTIONS.

(A) Where a public sanitary sewer is not available under the provisions of §§ 52.24 through 52.26, the building sewer shall be connected to a private sewage disposal system constructed in compliance with applicable Federal, State, county and local laws.

(B) Where private sewage disposal systems are constructed, they must be located at least 50 feet from any surface water, natural or artificial drain, or open joint, sub-surface groundwater or tile drain unless otherwise approved by the Superintendent. All installations shall comply with all applicable laws and regulations.

(C) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

(D) No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the City or other regulatory agencies with respect to private sewage disposal.

(E) If the owner or occupant of the property, upon which the same is located, shall fail to abandon and correct upon reasonable notice a private sewage disposal system then and in such case the City may do so, and charge the cost thereof to the property owner and to the occupant of the property, and such charges shall become a lien on the premises to which furnished, and is hereby recognized to constitute such lien, and the City shall, annually, on May 1, certify all unpaid charges for such services furnished to any premises which, on April 30 preceding, have remained unpaid for a period of six months, to the City Assessor, who 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. Collection of such moneys shall be in accordance with Section 54.09 of the City Code of Ordinances.
(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.36 PERMIT REQUIRED.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by an authorized representative of the Environmental Health Department of Mecosta County. The applicant shall supplement the application with any plans, specifications and other information as are deemed necessary by the Superintendent, or an authorized representative of the Environmental Health Department of Mecosta County.
(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.37 INSPECTION.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent and health officer. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent and health officer when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent and health officer.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.38 PUBLIC SEWER CONNECTION REQUIRED WHEN AVAILABLE.

(A) At such time as public sewer becomes available to a property served by a private disposal system, as provided in §§ 52.15 through 52.18, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. All filling and demolition shall be subject to approval of the Superintendent.

(B) Upon application of the owner of such property, the City may grant a delay of not more than two years, in making connection to public sewer. Such delay to be granted only if private facilities are satisfactory and create no nuisance or health hazard. The Superintendent may obtain the concurrence of the Mecosta County health officer before granting such delay.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.39 SEPTIC TANK SEWAGE.

(A) Septic tank sewage may be delivered to the sewage treatment plant for disposition only if the septic tank sewage has its origin in the City.

(B) The charges for the treatment of said septic tank sewage will be such amounts that the City may from time to time determine and establish by separate resolution. The OM&R portion of this fee shall be based on the actual cost to treat such sewage taking into consideration the concentration of said sewage.

(C) The City may regulate the amount of septic tank sewage that may from time to time be delivered to the sewage treatment plant, it being the policy of the City to allow treatment only of wastes originating in the City.

(D) The receipt of septic tank sewage for treatment at the sewage treatment plant shall be carried on only to the extent deemed practicable by the City taking into consideration the capacity of the system.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

BUILDING SEWERS AND CONNECTIONS**§ 52.45 PERMIT REQUIRED.**

(A) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

(B) All connections with any sewer of the City shall be made by permit issued by the Director of Public Works or the City Engineer/Utilities Director or their designated representative. Payment of connection costs and/or fees shall be established from time to time by the City.

(C) All applicants for sewer connection permits shall, when required, submit plans and specifications of all plumbing construction within such building or premises. Such plans and specifications shall meet the requirements of the Plumbing Code of the state, and all orders, rules and regulations of the Department of Environmental Quality. The approval of the connection permit shall also be contingent upon the availability of capacity in all downstream sewers, lift stations, force mains, and the waste-water treatment plant including BOD and suspended solids capacity. When such plans and specifications have been approved by the Director of Public Works or the City Engineer/Utilities Director or their designate, a permit shall be issued, subject to final inspection and approval when construction is completed.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.46 FINAL APPROVAL.

(A) Final approval will be subject to compliance with the applicable Code of the State of Michigan, and all orders, rules and regulations of local and state regulatory agencies.

(B) Upon final approval of any sewer connection, all sewer supports, testing of sewer, backfilling of sewer, including materials and other elements contingent on completion of installation, shall comply with all applicable State and local Codes.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.47 COSTS TO BE BORNE BY PROPERTY OWNER.

(A) All costs and expense incidental to the installation and connection of and to any sewer shall be borne by the property owner of said property. The owner shall indemnify the City for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(B) The cost of all repairs, maintenance and replacements of existing building sewers and their connection to public sewers shall be borne by the property owner. Such owner shall make application for permit to perform such work to the Director of Public Works or the City Engineer/Utilities Director or their designate.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.48 CITY TO MAKE CONNECTIONS TO PUBLIC SYSTEM.

All connections to existing or new sewers will be made by employees of the City or their approved representatives. The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such a branch is available at a suitable location.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.49 PERMITTEE TO NOTIFY CITY WHEN CONNECTION IS READY FOR INSPECTION.

The applicant for the building sewer permit shall notify the City when the building sewer is ready

for inspection and connection to the public sewer. (Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

§ 52.50 EXCAVATIONS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02) Penalty, see § 52.99

RATES, CHARGES AND REVENUES

Editor's note: A schedule of rates and charges for sewer service is set forth in Chapter 54.

§ 52.60 USER RATES AND CHARGES FOR WASTEWATER DISPOSAL SERVICE.

(A) The sanitary sewer system of the City shall, as far as possible, be operated and maintained on a public utility basis as authorized by law. Each premises within the City connected to and using facilities of the system shall pay user rates and charges as fixed and established from time to time by the City. The City shall annually renew the user rates and charges as required by Public Law 92-500.

(B) Commencing on the effective date of this chapter, the user rates and charges for wastewater treatment shall be fixed by the City by ordinance or resolution. Charges for wastewater treatment furnished to premises outside the corporation limits of the City shall be fixed by the City by ordinance or resolution prior to the rendering of such services.

(C) Where sewage disposal service is furnished to users not connected to the water system or in cases where users make use of large quantities of water which may be discharged into storm sewers or approved outlets other than the sanitary sewer system, or for other miscellaneous users of water for which special consideration would be given, special rates may be fixed by the City, and the City may require nonresidential users to install metering equipment to accurately determine the flow. Residential users shall be charged on the bases of average residential metered charges on the system.

(D) Bills shall be payable periodically and simultaneously with payments made for water consumed and/or used and shall be subject to such penalties as may apply to bills for water service.

(E) No free service shall be furnished by the system to the City or to any person, firm, or corporation, public or private, or to any public agency or instrumentality.

(F) At the discretion of the City, all users outside the corporate limits of the City of Big Rapids may be charged for all flows at the point of entry into the City's publicly owned collection system. The decision to charge, based on flows, at the point of entry may be recommended by the Superintendent, or Department, subject to the approval of the City Manager.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.61 ALLOCATION OF REVENUES.

From and after the effective date of this chapter the revenues and income derived from the collection of rates and charges as authorized by the Wastewater Pretreatment Ordinance (Chapter 53) shall be deposited into the fund set up for such revenues specified as follows:

(A) *Operation and Maintenance Fund.* There shall be established a fund or account to be designated "Operation and Maintenance Fund" from the revenues received from the users for such purpose. Out of these revenues, payment will be for current expenses of operation, maintenance, and administration of the wastewater disposal system of the City.

(B) *Debt Retirement Fund.* There shall be established a fund or account to be designated "Debt Retirement Fund" from the revenues received from the users for such purposes. All of the revenues will remain in the Bond Retirement Fund until sufficient monies have been deposited therein, which will be sufficient to pay the principal and interest of maturing Sewage Disposal Bonds of the City.

(C) *Replacement fund.* There shall be established a fund or account to be designated "Replacement Fund" from the revenues received from the users for such purposes. Expenditures from the "Replacement Fund" shall be for obtaining and installing equipment, accessories, or appurtenances

during the service life of the treatment works necessary to maintain the capacity and performance for which such works were designed and constructed. The Replacement Fund shall be funded, annually and continuously from the date of this chapter and shall be maintained throughout the service life of the Wastewater Treatment Plant.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.62 FISCAL YEAR.

The fiscal year for purposes of this chapter shall commence on July 1 and end on June 30.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

ADMINISTRATION AND ENFORCEMENT

§ 52.70 CONTROL OF POTW.

The operation, repair and management of the POTW shall be under the immediate control of the City or its Control Authority as required by State Law MCL 123.203, MSA 5.2703.

(Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.71 POWERS AND AUTHORITY OF INSPECTORS.

(A) Representatives of the POTW, the State and EPA, upon showing proper identification shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this chapter. Industrial users shall allow authorized representatives of the POTW, State and EPA access to all premises for the purpose of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives of the POTW, State and EPA shall have the right to place on the user's property such devices as necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear, the user shall make necessary arrangements at its own expense, to enable the authorized representatives of the POTW, State, and EPA to enter and inspect the premises as guaranteed by this division.

(B) While performing the necessary work on private properties referred to above, duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.72 APPEAL.

Any person who deems himself aggrieved by the provisions, application or enforcement of the terms of this chapter shall have the right to be heard before the City Commission. Such person shall make written request to be heard by filing a written request which shall specify the manner in which or reasons why the person deems himself aggrieved and shall state facts in support thereof. Upon the filing of such a written request the City Clerk shall place the matter on the agenda for the next regular City Commission meeting and give reasonable notice to the person filing the same of the date, time and place of which the matter will be heard by the City Commission. After considering the matter, the City Commission may take whatever action, if any, it determines to be appropriate in regard to the matter. (Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

§ 52.99 PENALTY.

All users, significant and nonsignificant, are subject to the enforcement options and penalties as provided in the Wastewater Pretreatment Ordinance (§ 53.999). (Ord. 311-3-92, passed 3-16-92; Am. Ord. 492-05-02, passed 5-20-02)

CHAPTER 53: WASTEWATER PRETREATMENT

Section

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GENERAL PROVISIONS

§ 53.001 PURPOSE.

This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City and enables the City to comply with all applicable state and federal laws required by the Clean Water Act, as amended, 33 USC 1251, et seq., and the General Pretreatment Regulations (40 CFR, Part 403). (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.002 OBJECTIVES.

The objectives of this chapter are to:

(A) Control or prevent the introduction of pollutants into the municipal wastewater system which may interfere with the normal operation of the system or contaminate the resulting municipal sludge;

(B) Control or prevent the introduction of pollutants into the municipal wastewater system which do not receive adequate treatment in the POTW, and which may pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;

(C) Improve the opportunity to recycle and reclaim wastewater and sludge from the system;

(D) Control or prevent discharges or potential discharges (storage of materials) to systems or areas under the jurisdiction of this municipality that may impair the environment.

(E) Control or prevent the introduction of pollutants into the POTW which may cause the treatment plant to violate its NPDES Discharge Permit.

(F) Control or prevent the introduction of pollutants into the POTW which pose a health threat to POTW workers. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.003 POLICY; APPLICATION.

(A) This chapter provides for the regulation of direct contributors to the municipal wastewater system through the issuance of permits, execution of binding contracts, or enforcement of administrative regulations. This chapter also authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customers capacity will not be preempted and provides for the setting of fees for the equitable distribution of cost resulting from the program established herein. This chapter does not provide for the recovery of operations, maintenance or replacement costs of the POTW, or the costs associated with the construction of collection and treatment systems used by industrial dischargers in proportion to their use of the POTW, which are the subject of separate enactments.

(B) This chapter shall apply to the City and to persons outside the City who are by contract or agreement with the City, users of the Publicly Owned Treatment Works (POTW). Except as otherwise provided herein, the City Engineer/Utilities Director, or his or her designate, shall administer, implement and enforce the provisions of this chapter. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.004 DEFINITIONS.

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

ACT or "THE ACT". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et. seq.

ALTERNATIVE DISCHARGE LIMIT. Limits set by the City in lieu of the promulgated National Categorical Pretreatment Standards, for integrated facilities in accordance with the combined wastestream formula as set by the EPA.

APPROVAL AUTHORITY. The Michigan Department of Environmental Quality (MDEQ) or the U.S. Environmental Protection Agency (EPA).

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER.

(1) In the case of a corporation, a president, secretary, treasurer, vice president of the corporation in charge of a principal business function;

(2) In the case of a partnership or proprietorship, a general partner or proprietor; and

(3) An authorized representative of the individual designated above if:

(a) Such representative is responsible for the overall operation of the facilities from which the discharge into the POTW originates;

(b) The authorization is in writing; and

(c) The written authorization is submitted to the POTW.

BOD or BIOCHEMICAL OXYGEN DEMAND. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20° C., expressed in terms of weight per unit volume (milligrams per liter — mg/l).

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other 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 POTW.

BYPASS. The intentional diversion of wastestreams from any portion of an Industrial users treatment facility.

CATEGORICAL STANDARDS. National Categorical Pretreatment Standards or Pretreatment Standards as defined in CFR Part 400.

CITY. The City of Big Rapids or its Control Authority.

COD or CHEMICAL OXYGEN DEMAND. A measure of the oxygen equivalent of the organic matter content of a sample that is susceptible to oxidation by a strong chemical oxidant.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

COMBINED WASTESTREAM. The wastestream at industrial facilities where regulated process effluent is mixed with other wastewater (either regulated or unregulated) prior to discharge.

COMPATIBLE POLLUTANT. The pollutants which are treated and removed to a substantial degree by the treatment works. These pollutants are biochemical oxygen demand, suspended solids, pH, fecal coliform, and phosphorus and its compounds.

COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

CONTROL AUTHORITY. The “Approval Authority” defined hereinabove; or the City Engineer/Utilities Director or his or her designate if the City has an approved Pretreatment Program under the provisions of 40 CFR 403.11.

DILUTION. The reduction in strength or concentration of substances by the addition of water.

DIRECTOR. The Director of the Michigan Department of Environmental Quality.

DOMESTIC SOURCE. A source whose waste normally emanates from residential living units and results from the day-to-day activities usually considered to be carried on in a domicile.

EPA ADMINISTRATOR. The head of the U.S. Environmental Protection Agency.

EXTRA STRENGTH SEWAGE. Sewage containing pollutants or other material in excess of levels normally found in a domestic source.

FOOD SERVICE ESTABLISHMENTS (FSEs). Establishments that prepare food for consumption in a dining, carry-out, or institutional setting, or that prepare food for sale on the premises such as a bakery, grocery or convenience store deli.

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

GOVERNMENTAL USER. Any Federal, State and local government user of the City system.

GRAB SAMPLE. A sample collected at a particular time and place.

HOLDING TANK WASTE. Any waste from holding tanks including but not limited to wastes from vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

INDIRECT DISCHARGE or DISCHARGE. The introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

INDUSTRIAL COST RECOVERY. Industrial Cost Recovery (ICR) may be defined as the cost recovered from industrial users of the treatment works of the grant amount allocable to the treatment of wastes from such users under Section 204(b) of P.L. 95217.

INDUSTRIAL USER or USER. Any person who introduces pollutants into a POTW from any nondomestic source regulated under the Act, state law or local ordinance.

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

INSTITUTIONAL USER. A school, hospital, church, nursing home, or like user.

INTEGRATED FACILITIES. Industrial facilities with a combined wastestream.

INTERFERENCE. A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes (use or disposal) and thereby causes either a NPDES permit violation or prevents sewage sludge use or disposal in compliance with 40 CFR 403.3(i)(2).

LOCAL LIMITS. The concentration expressed in milligrams per liter, that users can not exceed when discharging any waste into the City's collection system. The Local Limits apply equally to all users. Local Limits will be established based on the results of an engineering evaluation of the wastewater collection and treatment facilities, and shall be approved by the Michigan Department of Environmental Quality before being enforced by the City of Big Rapids.

NATIONAL CATEGORICAL PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD. Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

NEW SOURCE.

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Any construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of divisions (1)(b) or (c) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a “new source” as defined under this definition has commenced if the owner or operator has:

(a) Begun or caused to begin as part of a continuous on site construction program:

1. Any placement, assembly or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

NPDES PERMIT or NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT. The Clean Water Act, as amended by Public Law 92-500, prohibits any person from discharging pollutants into a waterway from a point source unless such discharge is authorized by a permit issued either by the U.S. Environmental Protection Agency or by an approved state agency.

OPERATION AND MAINTENANCE or O&M COSTS. All costs, direct and indirect, not including debt service, but inclusive of expenditures attributable to administration, equipment replacement and treatment and collection of wastewater necessary to insure adequate treatment and collection on a continuing basis in conformance with all applicable federal, state and local regulations.

PASS THROUGH. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, may cause a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERSON. Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the

feminine, the singular shall include the plural where indicated by the context.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

POINT OF DISCHARGE. Any discernible, confined and discrete conveyance or vessel from which pollutants are or may be discharged into a public waterway or public sewer system.

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, commercial and agricultural waste or other contaminant.

POTW TREATMENT PLANT. That portion of the POTW designed to provide treatment to wastewater.

PRETREATMENT or TREATMENT. The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sewage works. The reduction or alteration can be obtained by physical, chemical or biological processes, or other process changes or means, except as prohibited by 40 CFR Section 403.6(d).

PRETREATMENT STANDARD or STANDARD. Any local, state or federal regulation containing pollutant discharge limits. This term includes local limits, prohibitive discharge limits including those promulgated under 40 CFR 403.5, and categorical pretreatment standards.

PRIORITY POLLUTANT. The EPA has determined that there are 127 toxic compounds that can reasonably be expected in the discharges from the 34 categorical industries. These are labeled “priority pollutants.” Each industrial category by nature of their common processes can be expected to discharge certain compounds from the list of 127.

PROHIBITED DISCHARGES. Prohibited discharges are nondomestic user discharges which interfere with or pass through the treatment plant operations. They include but are not limited to the priority pollutants, hazardous materials, and certain characteristics of the water which interfere with the

treatment plant and/or collection system. They are defined as follows:

(1) Chemical compound which interferes with or passes through the treatment process.

(2) Materials which create a fire or explosion hazard in the sewers or treatment works, or which release poisonous gasses.

(3) Materials which obstruct the flow in the sewage collection and/or treatment system.

(4) Materials which will change the pH to highly acidic or alkaline.

(5) Water which increases the treatment influent to above 104° F. (40° C.).

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

PUBLICLY OWNED TREATMENT WORKS or POTW. A treatment works as defined by Section 212 of the Act, (33 USC 1292) which is owned in this instance by the City. This includes any sewers that convey wastewater to the POTW treatment plant. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the City who are, by contract or agreement with the City, users of the POTW.

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

REGIONAL ADMINISTRATOR. The administrator of the regional office of the USEPA that has jurisdictional authority within the City of Big Rapids, or anyone designated by this person to act in his or her place.

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

SEVERE PROPERTY DAMAGE. Substantial physical damage to property or damage to the treatment facilities which may cause them to become inoperable, or substantial and permanent loss of

natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production.

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

SEWAGE WORKS. All facilities for the collection, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SEWER SERVICE CHARGES. A rate charged for providing wastewater collection and treatment service.

SIGNIFICANT INDUSTRIAL USER.

(1) Except as provided in division (2) of this definition, the term "Significant industrial user" means:

(a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and

(b) Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the POTW on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(2) Upon a finding that an industrial user meeting the criteria in division (1)(b) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the POTW may at any time, on its own initiative or in response to a petition receive from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

SIGNIFICANT NONCOMPLIANCE.

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(2) **TECHNICAL REVIEW CRITERIA** (or **TRC VIOLATIONS**, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under § 53.108 to halt or prevent such a discharge.

(5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules.

(7) Failure to accurately report noncompliance.

(8) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

SLUDGE. The accumulated solids separated from liquids, such as water or wastewater, during processing.

SLUG. Any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

STANDARD INDUSTRIAL CLASSIFICATION or **SIC.** A classification pursuant to the "Standard Industrial Classification Manual" issued by the Executive Office of the President, Office of Management and Budget, 1972.

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

SUPERINTENDENT. The person in charge of the POTW. The Superintendent shall be appointed by the City Engineer/Utilities Director, subject to the approval of the City Manager, and shall meet the minimum qualifications established by the Michigan Department of Environmental Quality.

SURCHARGE. An extra charge to cover the cost of treating, sampling and testing extra strength sewage.

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 the wastewater treatment process.

TOTAL PETROLEUM HYDROCARBONS. Petroleum based portion of fats-oils-grease.

TOXIC POLLUTANT. Any pollutant or combination of pollutants which is or can potentially be harmful to public health or environment including those listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of the CWA 307(a) or other Acts, or included in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality or other Acts.

UPSET. An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set for in § 53.110 due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

U.S. EPA. The United State Environmental Protection Agency which assures the protection of

the environment by abating or controlling pollution on a systematic basis.

USER. Any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

USER CHARGE. The charge levied on users of the system for the cost of operation and maintenance of such work pursuant to Section 204b of P.L. 92-500, which charge shall also include cost of replacement.

USER CLASS. The kind of user connected to the sanitary sewers, including but not limited to, residential, industrial, commercial, food service establishment, institutional and governmental.

WASTEWATER. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

WATERS OF THE STATE. Waters of the State include:

(1) Both surfaces and underground waters within the boundaries of this state subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within this state, other than those designed and used to collect, convey, or dispose of sanitary sewage; and

(2) The flood plain free-flowing waters determined by the Department of Natural Resources on the basis of 100-year flood frequency.

(3) Any other waters specified by state law.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02; Am. Ord. 700-09-16, passed 9-6-16)

§ 53.005 ABBREVIATIONS.

For the purpose of this chapter, the following abbreviations shall apply:

ASTM	American Society for Testing Materials
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BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
CWA	Clean Water Act
FOG	Fats, oil and grease
IPP	Industrial Pretreatment Program
MDEQ	Michigan Department of Environmental Quality
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O&M	Operations & Maintenance
O, M & R	Operation, Maintenance & Replacement
PIPP	Pollution Incidence Prevention Program
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SS	Suspended Solids
SWDA	Solid Waste Disposal Act, 42 USC 6901, et. seq.
TPH	Total Petroleum Hydrocarbons
TSS	Total Suspended Solids
ug/l	microgram per liter
USC	United States Code
U.S. EPA	United States Environmental Protection Agency
VOC	Volatile Organic Compound
WEA	Water Environment Association

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.006 REMOVAL CREDITS.

Where applicable, the Authority may elect to initiate a program of removal credits as part of this chapter to reflect the POTW's ability to remove pollutants in accordance with 40 CFR, Part 403.7.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.007 NET/GROSS CALCULATIONS.

The Control Authority may elect to adjust Categorical Pretreatment Standards to reflect the presence of pollutants in the Industrial user's intake water, in accordance with 40 CFR, Part 403.15.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

DISCHARGE REGULATIONS**§ 53.015 GENERAL DISCHARGE PROHIBITIONS.**

No discharger shall contribute or cause to be contributed, directly or indirectly, any pollutant(s) which will pass through or cause interference with the operation or performance of the POTW or otherwise to the facilities of the City.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02) Penalty, see § 53.999

§ 53.016 SPECIFIC DISCHARGE PROHIBITIONS.

In addition to the general discharge prohibitions, the following specific pollutants shall not be introduced into the POTW or otherwise to the facilities of the City:

(A) Pollutants which by reason of their nature or quantity may create a fire or explosion hazard or be injurious to the POTW or the operation of the POTW including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F. or 60° C. using the test methods specified in 40 CFR 261.21.

(B) Pollutants which will cause corrosive structural damage to the POTW, but in no case dischargers with pH lower than 6.0 or higher than 9.5.

(C) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers and the like, either whole or ground by garbage grinders with particles greater than one-half inch in any dimension, or any material which can be disposed of as trash.

(D) Any slug load, which shall mean any pollutant, including oxygen demanding pollutants (BOD and the like) released in a discharge at a flow rate and/or pollutant concentration which may cause interference with the POTW.

(E) Heat in amounts which may inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40° C. (104° F.) unless the Approval

Authority, upon request of the POTW, approves alternate temperature limits.

(F) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that may cause interference or pass through.

(G) Pollutants which may result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems, injure or interfere with any sewage treatment process, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(H) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(I) Any waters or sewage containing pollutant concentrations greater than those listed on the federal categorical pretreatment standards for a particular subcategory. If the federal standard is more stringent than limitations proposed under this chapter for sources in that subcategory, the federal standards shall immediately supersede the limitations imposed under this chapter. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR Section 403.12.

(J) Any wastewater containing any radioactive waste or isotopes of such half life or concentration as exceeds limits established by the Authority in compliance with applicable state or federal regulations.

(K) Any wastewater with color of sufficient light absorbency to interfere with treatment plant process, prevent analytical determinations, or create any aesthetic effect on the treatment plant effluent, such as, but not limited to, dye wastes and vegetable tanning solutions.

(L) Any discharge into the collection system or the wastewater treatment plant which contains any material in excess of the concentrations allowed by the Local Limits.

(M) Soluble substances in a concentration that increases the viscosity to greater than 10% over the viscosity of water or in amounts that will cause obstruction to the flow in the POTW resulting in interference.

(N) Any solvent extractable, including, without limitation, oil grease, wax, or fat, whether emulsified or not, in excess of applicable local limits; or other

substances that solidify or become viscous (with a viscosity of 110% of water) at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit in amounts that cause obstruction to the flow in sewers or other interference with the operation of the POTW.

(O) Any pollutant that results in excess foaming during the treatment process. Excess foaming is any foam that interferes with the treatment process.

(P) Any medical infectious waste.

(Q) Any sludge, precipitate or waste resulting from any industrial or commercial treatment or pretreatment of any wastewater or air pollutants.

(R) Any non-contact cooling water, air-conditioning water, swimming pool water, storm water, surface water, groundwater, roof runoff, and surface or subsurface drainage except as authorized by law, and as approved by the Superintendent.

(S) Any discharge into the collection system or the wastewater treatment plant which contains any material in excess of the concentrations allowed by the Local Limits or that causes the POTW to violate its NPDES permit, the receiving water quality standards, or associated local, state or federal laws, rules, or regulations, or interferes with the reclamation, reuse or disposal process for treatment residues, sludge, or scums.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02; Am. Ord. 700-09-16, passed 9-6-16) Penalty, see § 53.999

§ 53.017 PRETREATMENT REQUIREMENTS; NATIONAL CATEGORICAL STANDARDS ADOPTED BY REFERENCE.

Industrial users shall provide necessary wastewater treatment as required to comply with the most stringent of limits found in this chapter, federal standards, state standards or permit [that] shall apply as established by the National Categorical Standards found in 40 CFR Chapter I, Subchapter N, Parts 405-471[, which] are hereby incorporated into this chapter and made a part hereof. All Industrial users shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the federal pretreatment regulations, the local limits established by the City of Big Rapids and with any other pretreatment standards by applicable deadlines.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02) Penalty, see § 53.999

§ 53.018 NEW SOURCES.

New sources shall install and have in operating condition, and shall "start up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.019 PRETREATMENT FACILITIES.

Any facilities required to pretreat wastewater shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pre-treatment facilities and operating procedures shall be submitted to the POTW for review, and shall be approved by the Superintendent of the POTW in writing before construction of the facility. The review and approval of plans and operating procedures does not relieve the industrial user from complying with the provisions of this chapter and permit conditions. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by the Superintendent of the POTW in writing prior to the industrial user's initiation of the changes

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.020 MODIFICATIONS TO PRETREATMENT STANDARDS.

(A) An application for modification of the National Categorical Pretreatment Standards may be considered for submittal to the Regional Administrator by the Authority, when the Authority's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR 403.7.

(B) The City may apply to the Approval Authority for modification of specific limits in the Federal Pretreatment Standards per the procedures set forth in Section 403.7 (c)(2) of Title 40 of the Code of Federal Regulations, Part 403 — "General Pretreatment Regulations for Existing and New Sources of Pollution," promulgated pursuant to the Act. The City may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7 are fulfilled and prior written approval from the Approval Authority is obtained.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.021 LIMITATIONS ON WASTEWATER STRENGTH.

(A) *State requirements.* State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal or local requirements and limitations.

(B) *Supplementary limitations — discharge limits - local limits.*

(1) No user shall discharge wastewater containing concentrations (and/or mass limitations) in excess of the following:

Material	Concentration (mg/l)
Conventional Pollutants	
Ammonia – N	64
BOD ₅	1,000
Total Suspended Solids	900
FOG	200
TPH	49
Total Phosphorus as P	36

Material	Concentration (ug/l)
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Nonconventional Pollutants/upper limits:

METALS

Arsenic	60
Cadmium	90
Copper	950
Cyanide	130
Chromium, Total	2,700
Chromium, Hexavalent	300
Lead	570
Mercury	*(LOD)
Nickel	930
Selenium	150
Silver	43
Zinc	3,700

ORGANICS

1,4-Dichlorobenzene	24
Chloroform	50
Lindane	0.6
Benzene	24
Toluene	24
Ethyl Benzene	31
Xylenes, Total	44
Methylene Chloride	41
Tetrachloroethylene	5
Trichloroethylene	21
1,1,1- Trichloroethane	16

* The local discharge limitation for mercury is established at the level of detection (LOD) in accordance with the following:

There shall be no detectable amounts of mercury discharged into the publicly owned treatment works (POTW). Mercury sampling procedures, preservation, handling, and analytical protocol for compliance monitoring shall be in accordance with EPA Method 245.1. The Level of Detection (LOD), developed in accordance with the procedure specified in 40 CFR 136 shall not be greater than 0.2 ug/L for mercury, unless higher levels are appropriate due to matrix interference.

The evaluation of potential matrix interference(s) shall include, at a minimum, the following:

(a) A demonstration that the laboratory conducting the analysis is capable of achieving the LOD of 0.2 ug/L in reagent water;

(b) A demonstration that the LOD of 0.2 ug/L cannot be achieved in the effluent; and

(c) A demonstration that an attempt has been made to resolve the matrix interference(s).

In cases where true matrix interference(s) can be demonstrated, a discharge-specific LOD will be developed in accordance with the procedure in 40 CFR 136. Discharge-specific LODs will be incorporated into the wastewater discharge permit of the nondomestic user.

(2) In addition to penalties for violating the ordinance for discharging wastewater containing concentrations (and/or mass limitations) in excess of the limits stated above, surcharges shall be assessed by the City for any conventional pollutant discharged to the POTW in excess of average domestic influent WWTP concentration according to the City Sewer User Charge System, § 54.12(A), subsection G, "Surcharges." Discharges of any pollutant may not exceed the stated limitation under any circumstance. Surcharges will be based on a pro rated share of the annual costs of operation and maintenance associated with the treatment and handling of a substance, multiplied by the ratio of weight of excess substance over the normal weight of the substance to be treated annually.

(3) (a) The City of Big Rapids sustains costs to operate and maintain the City's sanitary sewer system and wastewater treatment plant. The Utility is paid by user fees that shall be distributed as equitably as possible among the users. The typical user rates

employed by the City of Big Rapids cover costs associated with the treatment of normal domestic strength wastewater. Higher strength wastes incur higher costs for treatment. Industrial and commercial users sometimes discharge high strength wastes and the surcharge program allows the City to recover the costs associated with treating this wastewater.

(b) Surcharges are an additional charge used to cover the extra cost of treating conventional pollutants in excess of domestic background concentrations.

(c) The City's surcharge procedure shall include, on at least a semi-annual basis, composite sampling on typically four consecutive days to determine the user concentration in mg/l of conventional pollutants from each non-domestic user. These user concentrations will be compared to the domestic background concentration for each parameter found under "Surcharge" in the City's User Charge Report. When the user concentration exceeds the domestic background concentration for a parameter, the excess amount will be the concentration used to calculate the pounds to be surcharged. The flow used shall be the actual monthly flow. Example: the domestic background concentration for total phosphorus is 5 mg/l. User A has an user concentration of 8 mg/l. The surcharge concentration for User A would be 3 mg/l. This concentration multiplied by the monthly flow in millions of gallons * 8.34 pounds per gallon gives the total pounds of phosphorus. If User A consumed 600,000 gallons of water, that would be 0.6 million gallons * 3 mg/l * 8.34 = 15.01 pounds of surcharge phosphorus @ \$2.51/lb = \$37.67 for that month. The excess concentration surcharge shall remain in effect until the next sampling. Each user subject to surcharges may be billed monthly or quarterly according to water usage or metered discharge. Sampling and analysis shall be performed by the City. A split of each sample shall be made available to each user upon written request to the Superintendent. The City may obtain additional samples to verify a user's effluent parameters. Any surcharged user may request additional samples based on a changed condition since the last sampling event. Costs for additional samples and analysis shall be paid by the user.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 347-2-94, passed 2-21-94; Am. Ord. 414-1-97, passed 1-20-97; Am. Ord. 493-05-02, passed 5-20-02; Am. Ord. 521-08-03, passed 8-18-03; Am. Ord. 545-05-05, passed 5-16-05; Am. Ord. 700-09-16, passed 9-6-16)

Cross-reference:

For provisions regarding Mercury Reduction Plans, see Chapter 53, Appendix.

§ 53.022 DILUTION PROHIBITED.

No discharger shall increase the use of potable or process water, nor mix separate waste streams, nor in any other way dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.023 RIGHT OF REVISIONS.

The Control Authority reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in § 53.002.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.024 SPILL PREVENTION AND SLUG CONTROL PLANS.

Significant industrial users and all industrial/commercial users with the potential to discharge toxic substances or prohibited pollutants shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter by developing spill prevention programs.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02) Penalty, see § 53.999

§ 53.025 SPILL PREVENTION FACILITIES.

(A) Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Spill prevention plans, including the facilities and the operating procedures shall be approved in writing by the POTW before construction of the facility.

(B) Industrial users that store hazardous substances shall not contribute to the POTW after the effective date of this chapter unless a spill prevention plan has been approved by the POTW. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage and transportation of hazardous substances.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.026 SPILL PREVENTION PLANS.

The POTW shall evaluate each significant industrial user at least once every two years, and other industrial users as necessary, to determine whether such user needs a plan to control slug discharges. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

(A) Description of discharge practices, including nonroutine batch discharges;

(B) Description of stored chemicals;

(C) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under §§ 53.015 and 53.016, with procedures for follow-up written notification within five days.

(D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.027 NOTIFICATION.

(A) *Accidental discharges.* In the case of any discharge in violation of this chapter or permit conditions, and in the case of any discharge that may cause problems to the POTW, including any slug loadings, as defined by § 53.026, the industrial user shall immediately notify the POTW of the discharge by telephone at 796-8483. During the hours of 3:00 p.m. to 7:00 a.m., the industrial user shall call Central Dispatch at 796-4811. The notification shall include:

(1) The date, time, location and duration of the discharge;

(2) The type of waste including concentration and volume; and

(3) Any corrective actions taken by the user.

(B) *Follow-up reports.* Within five days following an accidental discharge, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expenses, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(C) *Changed discharges.* All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).

(D) *Employee training.* The industrial user shall permanently post a notice in a prominent place advising all employees to notify the wastewater treatment plant at 796-8483 during normal business hours, or after hours call Central Dispatch at 796-4811, in the event of a dangerous discharge for which notification is required. Employers shall advise all employees who may cause or be injured by such a discharge of the emergency notification procedure. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.028 RECORDS.

(A) Users shall retain and make available upon request of authorized representatives of the POTW, the State, or the EPA all records required to be collected by the user pursuant to this chapter or any permit or order issued pursuant to this chapter.

(B) These records shall remain available for a period of at least three years after their collection.

(C) This period shall be extended during any litigation concerning compliance with this ordinance or permit conditions. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.029 RECORDS RETENTION.

All dischargers subject to this chapter shall retain and preserve for not less than three years any

records, books, documents, memoranda, reports, correspondence, any and all summaries thereof, relating to monitoring, sampling, and chemical analysis made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the Authority pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.030 ANALYTICAL REQUIREMENTS.

All analyses, including sampling results submitted in support of any application reports, evidence or required by any permit or order shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto or, if 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the EPA.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.031 CONFIDENTIAL INFORMATION.

(A) Information and data (other than effluent data) about a user obtained from report, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as such until a determination is made by the POTW. Effluent data shall be available to the public without restriction.

(B) When the person furnishing a report satisfies the POTW that such person has made the demonstration required by division (A), the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection except by the state or EPA for uses related to this ordinance, the NPDES permit or the pretreatment program. Confidential portions of a report shall be available for use by the State or EPA

in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data will not be recognized as confidential information.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.032 RIGHT OF ENTRY.

Representatives of the POTW, the state and EPA, upon showing proper identification shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this chapter. Industrial users shall allow authorized representatives of the POTW, State and EPA access to all premises for the purposes of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives of the POTW, state and EPA shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear, the user shall make necessary arrangements at its own expense, to enable the authorized representatives of the POTW, State, and EPA to enter and inspect the premises as guaranteed by this section.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.033 SPECIAL AGREEMENTS.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the Authority and any industrial concern whereby an industrial waste with unusual strength or character may be accepted by the Authority for treatment, subject to payment therefore, by the industrial concern, unless prohibited by state or federal regulations.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.034 ALLOTMENT OF POTW CAPACITY.

(A) The wastewater collection and treatment facilities have finite limitations for accepting flow, concentrations, or mass loadings from present or future customers. Capacity may be reserved for properties that have paid for or are paying for sanitary sewer service even though no use is now being made of the system (vacant property within sewer authority). The Control Authority may deny or condition new or increased contributions of flow,

concentrations, or mass loadings where such contributions may in the opinion of the Control Authority cause the POTW to violate its NPDES permit.

(B) Excess capacity beyond that as reserved above will be allotted on a first-come basis determined by the date the application is received by the Authority, provided construction leading to the prompt completion is underway within two years of the date of approval for sewer service. Should construction not be underway, a subsequent application will be processed as above. Application dates will be as provided by the Control Authority and approval dates will be by the Control Authority. An incomplete application will be honored for 30 days after notification of requirements, provided positive continuous action is underway to obtain all appropriate requirements.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.035 BYPASSING.

The intentional diversion of wastestreams from any portion of an industrial user's treatment facility is prohibited unless:

(A) Bypassing is unavoidable to prevent loss of life, personal injury or severe property damage;

(B) There are no feasible alternatives to the bypass;

(C) Prior written notice is given to the City at least ten days in advance of the bypass, and the bypass does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

FEES AND CHARGES

§ 53.040 PURPOSE.

The purpose of this section is to provide for the payment of fees from dischargers to the Authority's wastewater disposal system and to compensate the Authority for the cost of administration of the pretreatment program established in this chapter.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.041 CHARGES AND FEES.

The City shall adopt charges and fees which may include:

(A) Fees for monitoring, inspections, and surveillance procedures. (Note: This fee can be changed pursuant to a specification in permit or contract for administrative enforcement. It can optionally be included as an element of the user charge system.)

(B) Fees for permit applications.

(C) Fees for filing appeals.

(D) Fees for reviewing accidental discharge procedures.

(E) Fees for review of construction or related plans for additions or connections to the POTW.

(F) Fees for review of pretreatment plans, specifications and construction documents.

(G) Fees for special studies or continuous studies to evaluate pretreatment systems.

(H) Reimbursement for set-up and operating the Pretreatment Program.

(I) Other fees as the POTW may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the POTW.

(J) Reimbursement for sampling and laboratory analysis requested by non-domestic users to change a surcharge user classification. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02; Am. Ord. 700-09-16, passed 9-6-16)

ADMINISTRATION**§ 53.050 WASTEWATER DISCHARGES.**

It shall be unlawful for significant industrial users as defined in § 53.004 to discharge any wastewater to the POTW without a wastewater contribution permit except as authorized by the City Engineer/Director of Utilities in accordance with the provisions of this chapter.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02) Penalty, see § 53.999

§ 53.051 WASTEWATER CONTRIBUTION PERMITS.

(A) All significant industrial users (SIU's) proposing to connect to or to discharge sewage, industrial waste and other wastes into the POTW shall obtain a wastewater contribution permit before connecting to or discharging to the POTW. All existing SIU's connected to or discharging to the POTW shall obtain a wastewater contribution permit within 90 days after the effective date of this chapter.

(B) All existing SIU's planning a new, increased, or modified discharge shall obtain a new permit prior to initiation of operations of the new or modified facilities. An application for renewal of a permit which will expire shall be submitted 180 days prior to the expiration date and shall note any changes in the discharge since the issuance of the last Permit. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.052 PERMIT APPLICATION.

(A) All industrial users shall complete and file with the POTW, a permit application in the sequence hereby prescribed by the POTW and accompanied by the appropriate fee. Existing industrial users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting to the POTW. No wastewater contribution permit shall be issued to any applicant unless and until the following information has been provided or the following conditions have been met, unless waived in writing by the Superintendent:

(1) Name, address and location (if different from the address) and name of owners and operator;

(2) Disclosure of Standard Industrial Classification (SIC) number according to the "Standard Industrial Classification Manual," Bureau of the Budget, 1972, as amended;

(3) A plan map of the building, works, or complex with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse, or groundwaters noted, described, and the waste stream identified. Air exhaust vents and rupture disks will also be noted when serving areas where potential problems exist. Contaminants that can accumulate on roofs from exhaust vents and can be flushed to the groundwater or sewers during a rain shall be noted.

(4) Detailed plans of treatment facilities; chemical or fuel storage areas; chemical use areas; and/or operational and support facilities that may affect waste control. Provide plans of plumbing and plans of inspection of sampling manholes. Provide plans for secondary containment at storage areas or large volume use areas to prevent sudden losses of materials from the plant to surface waters, groundwaters, storm sewers, or sanitary sewers.

(5) A report on raw materials entering the process or support systems, intermediate materials, final products, and waste byproducts as those factors may affect waste control. A material safety data sheet shall be provided for all materials used, stored, or discharged where brand names, product names or commercial names are listed.

(6) Information on each source of wastewater including:

(a) The amount of wastewater from each source;

(b) The amount of wastewater discharged at each location;

(c) A schedule of average daily flow, peak flow, peak flow rates, time and duration of flow variations and seasonal or monthly variations at each location;

(d) A statement of the present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes;

(e) Wastewater constituents and characteristics including but not limited to those mentioned in §§ 53.016 and 53.021 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.

(7) A statement on whether or not compliance is being achieved with this chapter on a continuing basis or whether additional equipment, operational changes, or maintenance activities are necessary for compliance with this chapter.

(8) Guidelines for prompt control of potential spills including equipment, materials, control procedures, cleanup procedures, personal protection required and requirements for notification of plant and government officials. Evaluate effects or potential losses in the sewer systems or other discharge systems.

(9) A schedule to sample, test, and file reports with the POTW and appropriate state agencies on appropriate characteristics of wastes at locations, and according to methods approved by the POTW.

(10) Place waste treatment facilities, process facilities, waste streams, storage facilities, transfer facilities, or other potential waste problems under the specific supervision and control of persons who have been designated by the owner and who have been accepted or certified by the POTW or the state as properly qualified to supervise such facilities.

(11) Manual(s) of instructions for operation and maintenance of waste control facilities, for loading and unloading of chemicals, for laboratory control, for other matters related to a pollution incident prevention plan, and for the training of personnel in the above areas of concern.

(12) Maintain records and file reports on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents, or other wastes.

(13) If any industrial process is to be altered as to include or negate a process waste or potential waste, written notification shall be given to the POTW, subject to approval.

(14) All permit applications for new or modified permits shall be signed by a principal executive officer of the discharger and, unless waived by the POTW, a qualified engineer (licensed professional). All renewal applications for existing permits or contracts shall be signed by a principal executive officer of the discharger.

(B) The POTW will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the POTW may issue a wastewater contribution permit subject to terms and conditions provided herein.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.053 PRETREATMENT.

(A) Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pretreat

wastewater to a level acceptable to the POTW shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the POTW for review, the POTW will review such plans and respond with suggested modifications within 30 days following plan submittal. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the POTW under the provisions of this chapter.

(B) Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the POTW prior to the user's initiation of the changes.

(C) All records relating to compliance with Pretreatment Standards shall be made available to officials of the EPA and MDEQ upon request. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.054 CONSTRUCTION SCHEDULE.

Where additional pretreatment, secondary containment, and/or operation and maintenance activities will be required to comply with this chapter, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment, secondary containment, and/or implementation of additional operation and maintenance activities.

(A) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment or secondary containment required for the discharger to comply with the requirements of this chapter including, but not limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this chapter.

(B) Under no circumstance shall the POTW permit a time increment for any single step directed toward compliance which exceeds nine months.

(C) Not later than 14 days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a written

progress report to the POTW including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the POTW.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.055 PLAN REVIEW.

The POTW shall be provided with all plans, specifications, shop drawings, and operations and maintenance manuals for review and approval prior to initiation of construction for all secondary containment facilities, pretreatment facilities, and/or operational facilities required to comply with this chapter. The POTW may have the review completed by a competent engineering firm, and may charge such costs directly to the user, who shall pay said charges within 30 days of the date of billing by the City. Direct costs for review will be billed to the discharger regardless of whether construction is initiated or not.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.056 PERMIT MODIFICATION.

The POTW reserves the right to amend any wastewater contribution permit issued hereunder in order to assure compliance by the POTW with applicable laws and regulations. Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater contribution permit of each discharger will be subject to such standards within the time frame prescribed by such standards. All National Categorical Pretreatment Standards adopted after the promulgation of this chapter shall be adopted by the City as part of this chapter. Where a discharger, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater contribution permit as required by § 53.051 the discharger shall apply for a wastewater contribution permit from the POTW within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard by the U.S. EPA. In addition, the discharger with an existing wastewater contribution permit shall resubmit to the POTW within 180 days after the promulgation of an applicable National Categorical Pretreatment

Standard the information required by § 53.051. The discharger shall be informed of any proposed changes in the permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.057 PERMIT CONDITIONS.

Wastewater contribution permits shall specify no less than the following:

(A) All wastewater contribution permits shall be issued for a three year duration, subject to amendment or revocation as provided in this chapter. A permit may be issued for a shorter or longer period or may be stated to expire on a specific date, however, permit duration shall not be longer than five years. The user shall apply for permit reissuance at least 180 days prior to the expiration of the user's existing permit.

(B) Wastewater contribution permits are issued for a specific process or operation. A wastewater contribution permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without prior notification to the POTW and provision of a copy of the existing wastewater contribution permit to the new owner or operator. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The POTW may set additional conditions, such as an application requirement.

(C) Effluent limitations shall be based on applicable general pretreatment standards in 40 CFR Part 403, categorical pretreatment standards, local limits and state and local laws. If in establishing appropriate local limits by the POTW, it may become necessary, due to limited sampling points, to apply the combined wastestream formula, as provided in 40 CFR 403.6 (e)(4), to determine the most stringent limit.

(D) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on the applicable general pretreatment standards in 40 CFR Part 403, categorical pretreatment standards, local limits and State and local law.

(E) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedules. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(F) Fees and charges to be paid upon initial issuance.

(G) Limits on the average and maximum wastewater constituents and characteristics regulated thereby.

(H) Limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization.

(I) Requirements for installation and maintenance of inspection and sampling facilities.

(J) Compliance schedule.

(K) Special conditions as the POTW may reasonably require under particular circumstances of a given discharge including but not limited to sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule.

(L) Requirements for submission of special technical reports or discharge reports where same differ from those prescribed by this chapter.

(M) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the POTW, and affording POTW access thereto.

(N) Requirements for notification of the POTW of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituent being introduced into the wastewater treatment system.

(O) Requirements for notification of slug discharges as per § 53.069.

(P) General and specific discharge prohibitions as established by §§ 53.015 and 53.016.

(Q) Other conditions as deemed appropriate by the POTW to ensure compliance with this chapter. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

REPORTING REQUIREMENTS**§ 53.065 BASELINE MONITORING REPORT FOR CATEGORICAL DISCHARGES.**

(A) Industrial users subject to National Categorical Pretreatment Standards shall submit baseline reports to the POTW in a form prescribed and furnished by the POTW.

(B) Within 180 days after the effective date of a National Categorical Pretreatment Standard, or 180 days after a final administrative decision has been made upon a categorical determination submission in accordance with 40 CFR Section 403.6(a)(4), whichever is later, industrial users which are Existing Sources subject to such National Categorical Pretreatment Standards and currently discharging to the POTW shall submit a properly completed Baseline Report.

(C) New sources, when subject to a National Categorical Pretreatment Standard, shall submit a baseline report at least 90 days prior to commencement of discharge to the POTW.

(D) In support of the baseline report, the industrial user shall submit, in units and terms specified in the application, the following information:

(1) Name and address of the facility including the name of operator and owners.

(2) List of any environmental control permits held by or for the facility.

(3) Brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such user. This description shall include a schematic process diagram indicating points of discharge to the POTW from the regulated processes.

(4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(a) Regulated process streams; and

(b) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR Section 403.6(e).

(5) The industrial user shall identify the National Categorical Pretreatment Standards applicable to each regulated process, and shall:

(a) Submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentrations shall be reported. The sample shall be representative of daily operations.

(b) A minimum of four grab samples must be used for pH, cyanide, total phenols, FOG, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Control Authority may waive flow proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is not feasible. In such cases samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(c) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this section.

(d) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow the use of the combined wastestream formula of Section 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Section 403.6(e) this adjusted limit along with supporting data shall be submitted to the POTW.

(6) The industrial user shall provide a statement, reviewed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether National Categorical Pretreatment Standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) measures or additional pretreatment is required for the industrial user to meet the National Categorical Pretreatment Standards.

(7) If additional pretreatment or O&M will be required to meet the National Categorical Pretreatment Standards, the industrial user shall provide the shortest schedule which will provide such additional pretreatment or O&M. The

completion date in this schedule shall not be later than the compliance date established for the applicable National Categorical Pretreatment Standard.

(a) Where the industrial user's National Categorical Pretreatment Standard has been modified by a removal allowance (40 CFR Section 403.7) or the combined wastestream formula (40 CFR Section 403.6(e)), or net/gross calculations (40 CFR Section 403.15), at the time the industrial user submits a baseline report the information required in § 53.065(D)(5)(d), (6) and (7) shall pertain to the modified limits.

(b) If the National Categorical Pretreatment Standard for the industrial user is modified after the baseline report is submitted, the industrial user shall make any necessary amendments to information provided as a response to § 53.065 (D)(6) and (7) and submit them to the POTW within 60 days after the modified limit is approved.

(8) The following conditions shall apply to any schedule submitted in response to § 53.065(D)(7):

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable National Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and the like).

(b) No increment referred to in § 53.065 (D)(8)(a) shall exceed nine months.

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW including, at a minimum, whether or not it complied with the increment to be met on such date and if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the POTW.

(9) Such other information as may be required by 40 CFR 403.12(b) and as may be reasonably requested by the POTW.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.066 COMPLIANCE DATE REPORT.

Within 90 days following the date for final compliance with applicable Categorical Pretreatment Standards, or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to Categorical Pretreatment Standards shall submit to the POTW a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such Standards and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. Where equivalent mass or concentration limits are established by the POTW for a user, this report shall contain a reasonable measure of the user's long-term production rate. Where a user is subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production, the report shall include the user's actual production during the appropriate sampling period. The report shall state whether the applicable Pretreatment Standards are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.067 BYPASS REPORTING.

(A) An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of divisions (B) and (C) of this section.

(B) (1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notices to the POTW, if possible at least ten days before the date of bypass.

(2) An industrial user shall submit oral notice of unanticipated bypass that exceeds applicable Pretreatment Standards to the POTW within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The POTW may waive the written report on a case by case basis if the oral report has been received within 24 hours.

(3) Bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass unless:

(a) The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The industrial user submitted notices as requires by division (B)(1) of this section.

(C) The POTW may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in this section.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.068 CONTINUING COMPLIANCE REPORTS.

(A) Any user subject to a pretreatment standard set forth in this chapter, after the compliance date of such pretreatment standard or, in the case of a new discharger, after commencement of the discharge to the POTW, shall submit to the POTW during the months of June and December, unless required more frequently by the POTW, a report indicating the nature and concentration of prohibited or regulated

substances in the effluent which are limited by the pretreatment standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows. Flows shall be reported on the basis of actual measurement; however, where cost or feasibility considerations justify, the POTW may accept reports of average and maximum flows estimated by verifiable techniques. The POTW for good cause when considering such factors as local high or low flow rates, holiday, budget cycles, or other extenuating factors, may authorize the submission of said reports on months other than those specified above.

(B) The POTW may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by division (A) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(C) These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards.

(D) For industrial users subject to equivalent mass or concentration limits established by the POTW in accordance with the procedures in 40 CFR 403.6(c), the report required by paragraph (e)(1) shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by paragraph (e)(1) shall include the user's actual average production rate for the reporting period.

(E) Reports of significant industrial users shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the POTW. The frequency of monitoring by the discharger shall be as deemed necessary by the POTW to assess and assure compliance by the industrial user with applicable pretreatment standards and requirements.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.069 NOTIFICATION OF POTENTIAL PROBLEMS.

All industrial users shall notify the POTW immediately of all discharges that are or may be in violation of their wastewater contribution permit. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.070 NONCATEGORICAL DISCHARGERS.

(A) Significant noncategorical industrial users shall submit to the POTW during the months of March and September a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the pretreatment standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flow during the reporting period previously stated.

(B) Flows shall be reported on the basis of actual measurement; however, where cost or feasibility considerations justify, the POTW may accept reports of average and maximum flows estimated by verifiable techniques. The POTW, for good cause when considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may authorize the submission of said reports on months other than those specified above.

(C) Reports of dischargers shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the POTW. The frequency of monitoring by the discharger shall be as deemed necessary by the POTW to assess and assure compliance by the user with applicable pretreatment standards and requirements. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.071 CHANGED DISCHARGES.

All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR, 403.12(p). (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.072 HAZARDOUS WASTE REPORT.

(A) Any IU, except as specified in division (E) below, which discharges to the POTW any substance which, if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 CFR part 261, shall notify the POTW in writing of such discharge.

(B) All hazardous waste notifications shall include:

(1) The name of the hazardous waste as set forth in 40 CFR part 261;

(2) The EPA hazardous waste number;

(3) The type of discharge (continuous, batch, or other); and

(4) A certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(C) In addition to the information submitted in division (B) above, IU's discharging more than 100 kg of hazardous waste per calendar month to the POTW shall contain to the extent such information is known and readily available to the IU:

(1) An identification of the hazardous constituents contained in the waste;

(2) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and

(3) An estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months.

(D) IU's commencing the discharge of listed or characteristic hazardous wastes after the effective date of this chapter shall provide the notification no later than 180 days from the discharge of the wastes. Any notification under this provision need be submitted only once for each hazardous waste discharged, although notifications of changed discharges must be submitted under § 53.071.

(E) IU's are exempt from the hazardous waste notification requirement during a calendar month in which they discharge 15 kg or less of nonacute hazardous wastes. Discharge of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e) requires a one time notification. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.073 SIGNATORY REQUIREMENTS.

(A) All reports required by this chapter shall include the certification statement as set forth in 40 CFR, Part 403.6(a)(2)(ii) and shall be signed by a responsible official of the user. The certification statement shall read as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

(B) **A RESPONSIBLE OFFICIAL OF THE USER** is as defined by 40 CFR 403.12(1) and as follows:

(1) If the industrial user submitting the reports required by 40 CFR 403.12 paragraphs (b), (d) and (e) is a corporation, a "responsible official" means:

(a) A president, secretary, treasurer or vice president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision making functions for the corporation; or

(b) The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in first-quarter 2002 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) A general partner or proprietor if the industrial user submitting the reports required by 40 CFR 403.12 paragraphs (b), (d) and (e) is a partnership or sole proprietorship respectively.

(3) A duly authorized representative of the individual designated in divisions (B)(1) or (2) above if:

(a) The authorization is made in writing by the individual described in (B)(1) or (2) above.

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of well, or well field superintendent, or a position of equivalent responsibility for environmental matters for the company; and

(c) The written authorization is submitted to the Control Authority.

(4) If an authorization under division (B)(3) above is no longer accurate because of a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of division (B)(3) above must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.074 ANNUAL REPORTING BY THE POTW.

If requested by the Approval Authority, the POTW shall provide the Approval Authority with a report that briefly describes the POTW's program activities. The report shall be submitted no later than one year after approval of the POTW's pretreatment program, and at least annually thereafter, and shall include at a minimum the following:

(A) An updated list of industrial users including their names and addresses and a brief explanation identifying which industrial user is subject to Categorical Pretreatment Standards.

(B) A summary of the status of industrial user compliance over the reporting period.

(C) A summary of compliance and enforcement activities including inspections conducted by the POTW during the reporting period.

(D) Any other relevant information requested by the Approval Authority.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.075 SIGNATORY REQUIREMENTS BY THE CITY.

Reports submitted to the Approval Authority by the POTW must be signed by a principal executive officer, ranking elected official or other duly authorized employee if such employee is responsible for overall operation of the City. The reports and other documents required to be submitted shall be subject to:

(A) The provisions of 18 USC, Section 1001, relating to fraud and false statements;

(B) The provisions of Sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification;

(C) The provisions of Section 309(c)(6) of the Act regarding responsible corporate officers. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

MONITORING, INSPECTIONS AND SURVEILLANCE

§ 53.085 MONITORING FACILITIES.

(A) Each discharger shall provide and operate at the discharger's own expense, a monitoring facility or location for inspection, sampling, and flow measurement of each sewer discharge to the POTW. Each monitoring facility shall be situated on the discharger's premises, except where such a location would be impractical or cause undue hardship on the discharger. The POTW may concur with the facility being constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. Requests for installation on property not owned by the discharger shall be made in writing to the POTW. The POTW may accept, modify or reject the request and shall provide a written notification to the discharger of the action taken by the POTW.

(B) There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger.

(C) All monitoring facilities shall be constructed and maintained in accordance with all

applicable local construction standards and specifications. Construction shall be completed within 120 days of receipt of a permit or contract by an existing discharger and prior to initiation of operations by a new discharger.

(D) The POTW may inspect the monitoring facilities of any discharger to determine compliance with the requirements of this chapter. The discharger shall allow the POTW, Control Authority, the Department of Environmental Quality, or their representatives, upon presentation of credentials or identification, to enter the premises of the discharger at all reasonable hours, for the purposes of inspection, sampling, records examination, or records copying. The POTW, Control Authority, Department of Environmental Quality, or their representatives, shall have the right to set up on the discharger's property, such devices as are or may be necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. (Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.086 SAMPLE ANALYSIS.

The reports required by §§ 53.065 through 53.075 shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR, Part 136 and amendments thereto. Where 40 CFR, Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the Administrator. This sampling and analysis may be performed by the POTW in lieu of the industrial user. Where the POTW itself collects all the information required for the report, the significant industrial user will not be required to submit the report.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.087 SAMPLE FREQUENCY.

If sampling performed by an industrial user indicates a violation, the user shall notify the POTW immediately of becoming aware of the violation. The user shall also repeat the sampling and analysis and

submit the results of the repeat analysis to the POTW within 30 days after becoming aware of the violation, except the industrial user is not required to re-sample if:

(A) The POTW performs sampling at the industrial user at frequency of at least once per month; or

(B) The POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.088 MISCELLANEOUS SAMPLING.

If an industrial user subject to the reporting requirement in §§ 53.065 through § 53.075 monitors any pollutant more frequently than required by the POTW, using the procedures prescribed previously, the results of this monitoring shall be included in the report.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.089 CONFIDENTIAL INFORMATION.

(A) Information and data (other than effluent data) about a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and/or from inspections shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as such until a determination is made by the POTW. Effluent data shall be available to the public without restriction.

(B) When the person furnishing a report satisfies the POTW that such person had made the demonstration required by (A), the portions of the report which may disclose trade secrets or secret processes shall not be made available for inspection except by the state or EPA for uses related to this chapter, the NPDES permit and pretreatment programs. Confidential portions of a report shall be available for use by the state or EPA in judicial

review or enforcement proceedings involving the person furnishing the report. Effluent data will not be recognized as confidential information.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

Cross-reference:

Records, see § 53.028

Records retention, see § 53.029

ENFORCEMENT

§ 53.100 ENFORCEMENT ACTIONS.

(A) The POTW may for good cause suspend the wastewater treatment service, the water supply service, electrical service, and/or the wastewater contribution permit of a discharger when it appears to the POTW that an actual or threatened discharge presents or threatens:

- (1) A violation of the NPDES Permit;
- (2) An imminent or substantial danger to the health and welfare of persons;
- (3) An adverse impact to the environment;
- (4) Interference with the operation of the POTW;
- (5) Violation of any pretreatment limits imposed by this chapter; or
- (6) Violation of any pretreatment limits of any wastewater contribution permit issued pursuant to this chapter.

(B) Any discharger notified of the suspension of wastewater treatment service, the water supply service, the electrical service, and/or the wastewater contribution permit shall, within a period of time as determined by the POTW, cease all discharges or be subject to utility cutoff or sewer blockage by the POTW.

(C) It is the intent of this section to authorize the POTW to order in person, or by signed document, the immediate, but orderly shutdown of any operation, discharge, or facility, or any party thereof, for good cause shown. **ORDERLY SHUTDOWN** means consideration is to be given to protection of human safety and property of both the POTW and the discharger. It does mean that the responsible person for an offending discharge will immediately initiate

discussion with the POTW and will initiate the orderly actions required to stop the offending discharge and not wait for the next shift, weekend, or other convenient time. Orderly shutdown recognizes that consideration is to be given to the discharger for protection of human safety and for protection of equipment or property. For example, if the offending discharge source can be isolated, only that part of a facility need be shutdown. A discharge may need to be continued from a furnace or reaction vessel during cool-down to prevent injuries or damage. Reduced flows may be allowed, for example, to provide fire protection, refrigeration to protect food inventories, or to provide heat during the winter. Such consideration is not to be construed to relieve the discharger of any liability for damages caused before or during the orderly shutdown period.

(D) In the event of failure of the discharger to comply voluntarily with the suspension order within the specified time, the POTW shall notify the Department of Environmental Quality and commence judicial proceedings immediately thereafter to compel the discharger's compliance with such order. The POTW shall reinstate the wastewater contribution permit and/or the wastewater treatment service and terminate judicial proceedings upon proof by the discharger of the elimination of the noncomplying discharge or conditions creating the treatment as set forth above.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.101 REVOCATION OF PERMIT.

The POTW may revoke the permit of any discharger who fails to:

(A) Factually report the wastewater constituents and characteristics of its discharge;

(B) Report significant changes in wastewater constituents or characteristics;

(C) Provide reasonable access to discharger's premises by representatives of the POTW or the Department of Environmental Quality for the purpose of inspection or monitoring; or

(D) Violates the conditions of its permit or this chapter, or any final judicial order entered with respect thereto.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.102 NOTIFICATION OF VIOLATION; ADMINISTRATION ADJUSTMENT.

(A) Whenever the POTW finds that any discharger has engaged in conduct which justifies revocation of a wastewater contribution permit pursuant to § 53.101, the City shall serve or cause to be served upon such discharger a written notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within ten continuous days of the date of receipt of the note, the discharger shall respond personally or in writing to the POTW advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and, where necessary, establish a plan for the satisfactory correction thereof.

(B) Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.103 CONSENT ORDERS.

The City Engineer/Utilities Director is hereby empowered to enter into Consent Decrees, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include compliance schedules, stipulated fines or remedial actions, and signatures of the City Engineer/Utilities Director and industry representatives. Consent Decrees shall have the same force and effect as administrative orders issued pursuant to § 53.105.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.104 SHOW CAUSE HEARING.

Where the violation of § 53.101 hereof is not corrected by timely compliance by means of administrative adjustment, the City may order any discharger which causes or allows conduct prohibited by § 53.101, to show cause before the City or its duly authorized representative why the proposed revocation action should not be taken. A written notice shall be served on the discharger by personal service, certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the City or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the discharger to show cause before the City or its designee why the

proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of a discharger. The proceedings of the hearings shall be considered by the City which shall then enter appropriate orders with respect to the alleged improper activities of the discharger. Appeal of such orders may be taken by the discharger in accordance with applicable local or state law.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.105 COMPLIANCE ORDER.

When the POTW Superintendent finds that an industrial user has violated or continues to violate the chapter or a permit or order issued thereunder, he may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated, and compliance is achieved. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and best management practices.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.106 CEASE AND DESIST ORDERS.

When the POTW Superintendent finds that an industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the POTW Superintendent may issue an order to cease and desist all illegal or unauthorized discharges immediately.

(A) In an emergency, the order to cease and desist may be given by telephone.

(B) In nonemergency situations, the cease and desist order may be used to suspend or permanently revoke industrial wastewater discharge permits.

(C) The cease and desist order may order the industrial user to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.107 ADMINISTRATIVE FINES.

(A) Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined in an amount not to exceed the maximum allowable under state law (e.g., \$1,000) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the POTW Superintendent shall have other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the POTW Superintendent to reconsider the fine within ten calendar days of being notified of the fine. Where the POTW Superintendent believes a request has merit, he shall convene a hearing on the matter within 15 calendar days of receiving the request from the industrial user.

(B) Non-domestic users that fail to file required documentation may be charged twice the IPP user charge for each month that the documentation is delinquent, or a minimum charge of \$25 a month.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02; Am. Ord. 700-09-16, passed 9-6-16)

§ 53.108 EMERGENCY SUSPENSIONS.

(A) The POTW Superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(B) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the POTW Superintendent shall take such steps as deemed necessary, including immediate termination of water service or severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The POTW Superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in § 53.101 are initiated against the user.

(C) An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Superintendent prior to the date of the hearing described in division (C) of this section.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.109 RIGHT OF APPEAL.

Any discharger or any interested party shall have the right to request, in writing, an interpretation or ruling by the Control Authority on any matter covered by this chapter and shall be entitled to a prompt written reply. In the event that such inquiry is by a discharger and deals with matters of performance or compliance with this chapter or deals with a wastewater contribution permit issued pursuant hereto for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local or state law.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.110 OPERATING UPSETS.

(A) Any industrial user, which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter or wastewater contribution permit issued pursuant hereto, shall inform the POTW immediately upon first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger with the POTW within five calendar days. The report shall specify:

(1) Description of the upset, the cause thereof, and the upset's impact on a discharger's compliance status;

(2) Duration of noncompliance, including exact dates and times of noncompliance; an estimate of the volume and strength of wastes discharged and if the noncompliance continues, the time by which compliance is reasonably expected to occur;

(3) All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an upset or other conditions that may result in continued noncompliance.

(B) An **UPSET** means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the industrial user. An "upset" does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(C) An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of division (D) of this section are met.

(D) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the industrial user can identify the cause(s) of the upset.

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

(3) The industrial user has submitted the following information to the POTW and Control Authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five calendar days):

(a) A description of the indirect discharge and cause of noncompliance.

(b) The period of noncompliance, including exact duties and times or, if not corrected, the anticipated time the noncompliance is expected to continue.

(c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.111 JUDICIAL REMEDIES.

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, the POTW Superintendent, through the City Attorney, may

commence an action for appropriate legal and/or equitable relief in the 77th District Court or 49th Circuit Court for Mecosta County.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.112 INJUNCTIVE RELIEF.

Whenever an industrial user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the POTW Superintendent, through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.113 ANNUAL PUBLICATION OF IU'S IN SIGNIFICANT NONCOMPLIANCE.

The POTW Superintendent shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in significant noncompliance, as defined in § 53.004, with any provisions of this chapter or any permit or order issued hereunder during the period since the previous publication.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.114 AFFIRMATIVE DEFENSE.

Any user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in §§ 53.015 and 53.016 if it can demonstrate it met the conditions set forth in 40 CFR 403.5 (a)(2):

(A) The user did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

(B) (1) A local limit designed to prevent pass through and/or interference, as the case may be, was developed in accordance with paragraph (c) of 40 CFR 403.5 for each pollutant in the user's discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or

(2) If a local limit designed to prevent pass through and/or interference, as the case may be, has not been developed in accordance with paragraph (c) of 40 CFR 403.5 for the pollutant(s) that caused the pass through or interference, the user's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.115 RECOVERY OF COSTS INCURRED BY THE CITY.

Any discharger violating any of the provisions of this chapter, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the City's stormwater or wastewater disposal system shall be liable to the City for any expense, loss or damage caused by such violation or discharge. The City shall bill the discharger for any and all cost incurred by the City for any supervision, investigation, sampling, administration, cleaning, repair or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of the City Charter and/or §§ 53.100 through 53.114. In addition to the foregoing, the charges which are made pursuant to this chapter are hereby made a lien on all premises served thereby. In case any bill, together with all penalties thereon, shall not be paid within six months of the date of which said bill is due and payable the delinquent bill and all penalties thereon shall be a lien on the premises served. The City Assessor shall then place such charges on the next general tax roll and the same shall be collected in the same manner and in all respects provided by law for the collection of taxes by the City.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02)

§ 53.116 FALSIFYING INFORMATION.

No person shall knowingly make any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter or wastewater contribution permit, or falsify, tamper with, or knowingly render inaccurate any

monitoring device or method required under this chapter.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 493-05-02, passed 5-20-02) Penalty, see § 53.999

§ 53.999 PENALTY.

(A) *Misdemeanor.* Any person who violates § 53.116 shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$500, costs of not more than \$500, and jail of not more than 90 days.

(B) *Municipal Civil Infraction.* Any person or business who violates a provision of this chapter other than § 53.116, or an administrative order issued by the City in administering this chapter shall be responsible for a municipal civil infraction, and subject to a fine of up to \$1,000 and costs of up to \$500. Each day the violation occurs or continues constitutes a separate municipal infraction.

(C) *Civil Actions.* In addition to the actions and penalties provided in subsections (A) and (B), any person or business violating a provision of this chapter or an administrative order issued by the City in administering this chapter may be subject to a civil action and the imposition of a penalty of up to \$1,000 per violation, plus a penalty of double the economic gain made by continuing operations during a violation. The POTW may claim and recover reasonable attorney fees, court costs, and other expenses associated with enforcement activities, including but not limited to the expenses of sampling, monitoring and analysis. The POTW Superintendent shall petition the Court to impose, assess and recover such sums. In determining the amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

(D) *Authorized officials.* The POTW Superintendent and/or the City Engineer/Utilities Director, are authorized to issue municipal civil infraction citations for violations of the provisions of this chapter, and for violations of administrative orders issued by the City in administering this chapter.

(Ord. 312-3-92, passed 3-16-92; Am. Ord. 466-6-00, passed 6-5-00; Am. Ord. 493-05-02, passed 5-20-02)

APPENDIX: MERCURY REDUCTION PLANS

Sections

1. Mercury Reduction Plan may be required
2. Release from requirement

1. MERCURY REDUCTION PLAN MAY BE REQUIRED.

(A) To ensure that the maximum allowable mercury loading to the POTW is not exceeded, the Control Authority may require any nondomestic user with a reasonable potential to discharge mercury to develop, submit for approval and implement a Mercury Reduction Plan (MRP). The MRP may be required by permit if the nondomestic user has not violated the local limit for mercury, but the Control Authority has determined that a reasonable potential for such a violation may exist. MRP's may be required in notices of violations, orders or other enforcement actions when the nondomestic user has violated the mercury local limit. At a minimum, an approvable MRP shall contain the following:

(1) A written commitment by the nondomestic user to reduce all nondomestic discharges of mercury to levels below the LOD within three years of the MRP's original approval date;

(2) Within 60 days of notification by the Control Authority that a MRP is required, the nondomestic user shall supply an initial identification of all potential sources of mercury which could be discharged to the sanitary sewer system;

(3) Specific strategies for mercury reduction with reasonable time frames for implementation, capable of ensuring that mercury discharges will be below the specified LOD within three years;

(4) A program for quarterly sampling and analysis of the nondomestic discharge for mercury in accordance with the 245.1 methods;

(5) A demonstration of specific, measurable and/or otherwise quantifiable mercury reductions consistent with the goal of reducing mercury discharges below the specified LOD. Where such reductions can not be demonstrated through normal effluent monitoring (e.g., mercury discharges are near LOD), the demonstration should incorporate the following:

(a) Internal process monitoring, documenting the results of mercury reduction

strategies at sampling locations within the facility (e.g., a program of regular monitoring of sink traps where mercury containing reagents had previously been disposed, but have since been substituted by non-mercury containing compounds);

(b) Internal and/or effluent sampling utilizing clean and/or ultra-clean sampling and analytical methods as referenced by USEPA Federal Register. Note that the results of such monitoring will not be used for compliance purposes unless performed in accordance with EPA Method 245.1 and collected at the appropriate compliance measurement location.

(c) Loading calculations wherein the nondomestic user calculates the total mass of mercury reduced from the sanitary sewer discharge through reagent substitutions, changes in disposal practices and/or other approved MRP strategies implemented.

(6) A semiannual report on the status of the mercury reduction efforts. At a minimum, these reports shall:

(a) identify compliance or noncompliance with specific reduction commitments in the MRP;

(b) summarize the analytical, mass-based or other quantifiable demonstrations of mercury reductions performed to date;

(c) provide all applicable analytical data;

(d) provide an evaluation of the effectiveness of actions taken to date;

(e) provide updates to the initial list of mercury containing compounds discharged to the sanitary sewer; and

(f) propose for approval new strategies and/or modifications to the current MRP to continue and improve mercury reduction efforts.

(7) Any other conditions that the Control Authority deems necessary to ensure that mercury reduction efforts are effective in achieving the goals of this section.

(B) Failure to submit an approvable MRP within 30 days of the required due date shall constitute significant noncompliance in accordance with this section, and will result in publication as a significant violator.

(C) A MRP may be evaluated for adequacy at any time by the Control Authority. If such an evaluation determines that the Mercury Reduction Plan is inadequate, or the nondomestic user has not complied with its approved MRP, the nondomestic user will be notified. Failure to comply with the MRP requirement constitutes noncompliance. The Control Authority will follow its Enforcement Response Plan (ERP) to ensure that corrective actions are taken.

2. RELEASE FROM REQUIREMENT.

(A) A nondomestic user may request a release from MRP requirements if:

(1) all samples of the discharge for a period of one year are less than the specified LOD;

(2) the nondomestic user has complied with the minimum monitoring frequency of quarterly sampling events; and

(3) the Control Authority deems that MRP commitments have been fulfilled sufficiently to ensure continued compliance with the mercury limitation.

(B) The Control Authority shall notify the nondomestic user of any release from MRP requirements in writing.

(C) If the MRP requirement is waived by the Control Authority, the nondomestic user remains subject to the local limitations for mercury in accordance with the requirements of this section.

(D) Re-discovery of mercury in the nondomestic user discharge subjects said user to the submission of a new MRP, or escalation of enforcement in accordance with the ERP.

(Ord. 521-08-03, passed 8-18-03)

CHAPTER 54: WATER AND SEWER RATES

Section

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§ 54.01 DEFINITIONS.

Unless the context specifically indicates otherwise, the meanings of terms used in this subchapter shall be as defined in §§ 51.01, 52.03 and 53.004 unless an alternate definition is contained in § 54.01:

INSTITUTIONAL USER. A water customer occupying premises exempt from general property taxation.
(‘88 Code, Title II, Ch. 24, § 2.121) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.02 BASIS OF CHARGES.

All water and/or sewage disposal 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 City. Where water and/or sewage disposal service is furnished to any premises not having a meter, the water consumption shall be estimated by the City. No free water service or sewage disposal service shall be furnished to any person or business entity.
(‘88 Code, Title II, Ch. 24, § 2.122) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.03 REPLACEMENT OF SERVICES.

The Utility Schedule of Fees (§ 54.15) shall establish the cost to each user connected to the system for replacement of his or her old service pipe by copper pipe. This charge shall be billed by as a Utility Invoice and made part of the Utility billing and collection process by the City when the change is made.

(‘88 Code, Title II, Ch. 24, § 2.123) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 234-7-87, passed 7-6-87; Am. Ord. 476-02-01, passed 2-5-01; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.04 SEWER RATES OUTSIDE CORPORATE LIMITS.

Whenever the system is supplying sewage disposal service to premises located outside the corporate limits of the City, the rates for this service shall be fixed by the existing contacts between the City and the townships. The Operation, Maintenance, and Replacement (OM & R) portion of the rate charged shall be proportional to the City rates for Operation, Maintenance, and Replacement as outlined in the User Charge System and adopted by the City Commission.

(‘88 Code, Title II, Ch. 24, § 2.124) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 325-7-93, passed 7-6-93; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.05 WATER RATES OUTSIDE CORPORATE LIMITS.

Whenever the system is supplying water service to premises located outside of the corporate limits of the City, the rates for this service shall be 100% of the rates for institutional users as defined in § 54.01.

(‘88 Code, Title II, Ch. 24, § 2.125) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 392-8-95, passed 8-21-95; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.06 HYDRANT READINESS-TO-SERVE.

There shall be a fire hydrant readiness-to-serve charge, which shall be included in the City Utility bill.

The charge shall apply to all users and shall be established in the Water Rates Tables (§ 54.11). ('88 Code, Title II, Ch. 24, § 2.129) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 238-7-87, passed 7-6-87; Am. Ord. 348-3-94, passed 3-21-94; Am. Ord. 392-8-95, passed 8-21-95; Am. Ord. 524-11-03, passed 11-3-03; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.07 SERVICE TO CITY.

(A) The City shall pay the same water rates for service to it as would be payable by a private customer for the same service. The Sewer Operation, Maintenance and Replacement (OM & R) charge to the City shall be at the current rate per 1,000 gallons.

(B) The City shall bill itself on a monthly basis. Fire hydrant charges shall be paid annually from the General Fund to the Water Fund and rates shall be set according to § 54.06.

('88 Code, Title II, Ch. 24, § 2.130) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 239-7-87, passed 7-6-87; Am. Ord. 325-7-93, passed 7-6-93; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.08 BILLING.

All meters shall be read at least monthly. Bills for water and/or sewage disposal service shall be rendered monthly under the supervision of the City, and the bills shall be due and payable on the date specified in the bill. For bills not paid by the due date, a penalty of 3% per month shall be charged on the past due principle amount.

('88 Code, Title II, Ch. 24, § 2.131) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 241-8-87, passed 8-17-87; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.09 COLLECTION.

The City is hereby authorized to enforce the payment of charges, including Water Invoices, for water and/or sewage disposal service to any premises by discontinuing either the water service or the sewage disposal service to such premises, or both, and an legal action may be instituted by the City against the customer. The charges for water supply and/or 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, and the City shall, annually, on May 1, certify all unpaid charges for such services furnished to any premises which, on April 30 preceding, have remained unpaid for a period of six

months, to the City Assessor, who 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. To provide the City with proper notice of a lease containing a provision that the lessor shall not be liable for payment of water or sewage system bills accruing subsequent to the filing of an affidavit according to Act 94, Public Acts of 1933, being MCL § 123.165, the lessor shall complete and submit an affidavit in the form provided and required by the Treasurer's Office. Upon receipt of the affidavit, no water or sewer service shall be commenced or continued to the specified premises until there has been deposited with the City not less than \$100 for residential accounts and not less than \$150 for commercial accounts. The Treasurer's Office may require a deposit in an amount up to six times the average monthly water bill for the premises. Where the water service to any premises is turned off by the City to enforce the payment of water or sewage charges, the water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made, and a water turn-on/turn-off fee as provided in the Water Utility Schedule of Fees is paid. In any other case where, in the discretion of the City, the collection of charges for water supply and/or sewage disposal service may be difficult or uncertain, the City may require a similar deposit. Such deposits may be applied against any delinquent water supply and/or sewage disposal service charges and the application thereof shall not affect the right of the City to turn off the water service and/or sewage service, to any premises for any delinquency thereby satisfied. No such deposit shall bear interest and such deposit, or any remaining balance thereof, shall be returned to the customer making the same when the customer shall discontinue receiving water supply and/or sewage disposal service or except as to tenants as to whom notice of responsibility for such charges has been filed with the City, when any 12 successive monthly bills shall have been paid by the customer with no delinquency. ('88 Code, Title II, Ch. 24, § 2.132) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 183-8-83, passed 8-1-83; Am. Ord. 425-7-97, passed 7-21-97; Am. Ord. 476-02-01, passed 2-5-01; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.10 SPECIAL RATES.

(A) The monthly charge for each single unit dwelling for sewage disposal service to users not connected with the City's water system who do not have a water meter shall be billed at the rate of 8,000 gallons of water use plus the base rate for a residential 5/8-inch meter. In multi-dwellings this special rate shall be the residential rate for 8,000

gallons of water use, multiplied by the number of units per dwelling using City sewer disposal service plus the base rate for a 5/8-inch meter. These special rates include the base rate and commodity charge for sewer service and use.

(B) *Metered water usage.* Any new sewer customer who is not connected to the City water shall install a water meter provided by the City. The current cost of the meter shall be borne by the user if the meter size is greater than 5/8-inch. The City shall recommend the size of the meter, which size the customer may either use or select an alternate size. ('88 Code, Title II, Ch. 22, § 2.126) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 294-12-90, passed 12-17-90; Am. Ord. 307-7-91, passed 7-1-91; Am. Ord. 325-7-93, passed 7-6-93; Am. Ord. 364-8-94, passed

8-22-94; Am. Ord. 391-8-95, passed 8-7-95; Am. Ord. 405-6-96, passed 6-6-96; Am. Ord. 423-7-97, passed 7-7-97; Am. Ord. 435-6-98, passed 7-1-98; Am. Ord. 448-7-99, passed 7-6-99; Am. Ord. 468-6-00, passed 6-5-00; Am. Ord. 495-6-02, passed 6-17-02; Am. Ord. 515-6-03, passed 6-2-03; Am. Ord. 532-06-04, passed 6-7-04; Am. Ord. 548-06-05, passed 6-6-05; Am. Ord. 573-10-06, passed 10-2-06; Am. Ord. 683-01-15, passed 1-5-15)

§ 54.11 WATER RATES.

Effective July 1, 2020, the rates to charge monthly for water service shall consist of a base rate without regard to usage, and a commodity charge based on water usage.

(A) *Institutional customers.*

<i>Meter Size (inches)</i>	<i>Base Rate</i>	<i>Commodity Charge</i>
5/8	\$10.00	\$7.00 per 1,000 gallons
3/4	\$19.87	\$7.00 per 1,000 gallons
1	\$53.67	\$7.00 per 1,000 gallons
1-1/2	\$112.19	\$7.00 per 1,000 gallons
2	\$283.46	\$7.00 per 1,000 gallons
3	\$590.32	\$7.00 per 1,000 gallons
4	\$844.50	\$7.00 per 1,000 gallons
6	\$1,144.57	\$7.00 per 1,000 gallons

(B) *Commercial/industrial customers.*

<i>Meter Size (inches)</i>	<i>Base Rate</i>	<i>Commodity Charge</i>
5/8	\$5.50	\$6.15 per 1,000 gallons
3/4	\$10.93	\$6.15 per 1,000 gallons
1	\$29.52	\$6.15 per 1,000 gallons
1-1/2	\$61.71	\$6.15 per 1,000 gallons
2	\$155.90	\$6.15 per 1,000 gallons
3	\$324.67	\$6.15 per 1,000 gallons
4	\$464.48	\$6.15 per 1,000 gallons
6	\$629.52	\$6.15 per 1,000 gallons

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(C) *Residential customers.* Residential customers include single-family residence and rentals of four living units or less.

<i>Meter Size (inches)</i>	<i>Base Rate</i>	<i>Commodity Charge</i>
5/8	\$5.50	\$6.15 per 1,000 gallons
3/4	\$5.50	\$6.15 per 1,000 gallons
1	\$5.50	\$6.15 per 1,000 gallons

('88 Code, Title II, Ch. 22, § 2.127) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 294-12-90, passed 12-17-90; Am. Ord. 307-7-91, passed 7-1-91; Am. Ord. 392-8-95, passed 8-21-95); Am. Ord. 426-8-97, passed 8-4-97; Am. Ord. 449-8-99, passed 8-16-99; Am. Ord. 524-11-03, passed 11-3-03; Am. Ord. 525-11-03, passed 11-17-03; Am. Ord. 573-10-06, passed 10-2-06; Am. Ord. 589-10-07, passed 10-15-07; Am. Ord. 628-09-10, passed 9-7-10; Am. Ord. 683-01-15, passed 1-5-15; Am. Ord. 687-03-15, passed 3-16-15; Am. Ord. 693-05-16, passed 5-16-16; Am. Ord. 703-06-17, passed 6-5-17; Am. Ord. 726-07-18, passed 7-16-18; Am. Ord. 739-05-19, passed 5-20-19; Am. Ord. 759-06-20, passed 6-15-20)

§ 54.12 SEWER RATES.

(A) Effective July 1, 2020, the rates for charge monthly for sewer service shall consist of a base rate without regard to usage and a commodity charge based on sewer usage.

(1) *Commercial/industrial/institutional customers.*

<i>Meter Size (inches)</i>	<i>Base Rate</i>	<i>Commodity Charge</i>
5/8	\$8.07	\$7.00 per 1,000 gallons
3/4	\$31.63	\$7.00 per 1,000 gallons
1	\$48.50	\$7.00 per 1,000 gallons
1-1/2	\$97.73	\$7.00 per 1,000 gallons
2	\$282.53	\$7.00 per 1,000 gallons
3	\$487.19	\$7.00 per 1,000 gallons
4	\$743.65	\$7.00 per 1,000 gallons
6	\$1,262.63	\$7.00 per 1,000 gallons

(2) *Residential customers.* Residential customers include single-family residence and rentals of four living units or less.

<i>Meter Size (inches)</i>	<i>Base Rate</i>	<i>Commodity Charge</i>
5/8	\$8.07	\$7.00 per 1,000 gallons
3/4	\$8.07	\$7.00 per 1,000 gallons
1	\$8.07	\$7.00 per 1,000 gallons

(3) *Township customers.* The sewer rates to customers in Big Rapids Township and Green Township shall be determined by the current User Charge Report.

(4) *Industrial Pretreatment Program (IPP).* Commercial, industrial, and institutional users shall be charged an additional amount per 1,000 gallons of use for the Industrial Pretreatment Program (IPP) as determined by the current User Charge Report.

(5) *Single customer facilities.* Sewer lift stations, facilities, or other services on the system which serve only one customer shall be individually charged the cost of that private service.

(B) *Surcharges.* The City's surcharge procedure shall be based on one of two methods:

(1) For non-domestic users with a sampling manhole meeting the Industrial Pretreatment Program (IPP) manual specifications, or other approved method of discharge sampling, on at least a semi-annual basis, the City will conduct composite sampling, on typically four consecutive days to determine the average concentration in mg/l of conventional pollutants from each non-domestic user. These user concentrations will be compared to the domestic background concentration for each parameter found under "Surcharge" in the City's User Charge Report. When the user concentration exceeds the domestic background concentration for a parameter, the excess amount will be the concentration used to calculate the pounds to be surcharged. The flow used shall be the actual monthly flow. Example: the domestic background concentration for total phosphorus is 5 mg/l. User A has a user concentration of 8 mg/l. The surcharge concentration for User A would be 3 mg/l. This concentration multiplied by the monthly flow in millions of gallons * 8.34 pounds per gallon gives the total pounds of phosphorus. If User A consumed 600,000 gallons of water, that would be 0.6 million gallons * 3 mg/l * 8.34 = 15.01 pounds of surcharge phosphorus @ \$2.51/lb = \$37.67 for that month. The excess concentration surcharge shall remain in effect until the next sampling. Sampling and analysis shall be performed by the City. A split of each sample shall be made available to each user upon written request. The City may obtain additional samples to verify a user's effluent parameters. Any surcharged user may request additional samples based on a changed condition since the last sampling event. Costs for additional samples and analysis shall be paid by the user.

(2) Non-domestic users without an approved sampling manhole or other approved method of discharge sampling that are Food Service Establishments (FSEs), and do not require an industrial discharge permit, may be surcharged according to the surcharge classification procedure established by the City. This allows the City to levy surcharges to FSEs based on the specific type of service conducted (i.e., Full Service Restaurant, Fast Food Restaurant, Institutional Food Service, Grocery Store with Food Preparation, or Baked Goods/Bakery) by the user, in lieu of individual waste sampling results. Users placed in a specific class of FSE by the City may request individual surcharging based on actual sampling and analytical results as long as an adequate sampling manhole is provided and the user reimburses the City for sample collection time and materials and analytical expenses.

(3) Each user subject to surcharges may be billed monthly or quarterly according to water usage or metered discharge.

(C) *Food service establishments that do not have sampling manholes.* The Superintendent shall classify food service establishments (FSEs) based on type of food product, customer consumption method and food preparation activities within the categories defined below. The waste classification system shall determine how FSEs are surcharged.

(1) *Full service restaurants; definition.* This FSE typically prepares and serves food in a dining setting. Attending patrons are provided food items served on plates with utensils that have to be washed after the patrons have completed their meals. Cookware is also cleaned on the premises. Food preparation comprises the many activities that constitute the provision of service at a full service establishment - baking, frying, grilling, broiling, boiling, etc. The overwhelming majority of service is provided in seating areas with a relatively small amount of carryout business.

(2) *Fast food restaurants; definition.* This FSE prepares food intended for immediate consumption. Its food items are often provided in paper or other types of disposable wrappers and containers along with disposable utensils. The patrons of fast food establishments dine in a seating area or take their food on a carryout basis. Cookware is cleaned on the premises. Food preparation comprises the many activities that constitute the provision of service at a full service establishment - baking, frying, grilling, broiling or boiling.

(3) *Institutional food service; definition.* This FSE category comprises establishments that basically provide food service to the tenants or employees of a commercial, multi-unit/group residential or institutional facility. The food is prepared and/or provided in the location of the facility, usually in a cafeteria with seating. Depending on the type of facility, the food may be delivered to the room of the patrons or they can consume their food in a dining area. The employees of the food service establishment usually work for or are contracted by the facility in which the food is served.

(4) *Grocery store with food preparation; definition.* This FSE encompasses the various grocers, delis and supermarkets that prepare food. Food preparation comprises the many activities that constitute the provision of service at a full service restaurant- baking, frying, grilling, broiling or boiling. The patrons of these establishments buy food that is ready for consumption and they usually take

the food items with them when they leave the establishment, although some may have relatively small areas for patrons to consume food. Cookware and utensils are cleaned on the premises.

(5) *Baked goods or bakery; definition.* This FSE typically prepares a variety of baked goods, such as bread, pastries, and cakes for retail sale and for consumption by patrons who come to the establishment for baked goods for immediate consumption. The area dedicated to serving walk-in patrons is relatively small compared the total size of the facility with an equally small area dedicated to on premise consumption.

(D) *Standard FSE wastewater strengths.*

(1) Standard FSE wastewater strengths are established for each pollutant of concern including Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Phosphorus (TP), and Ammonia.

<i>Category</i>	<i>BOD (mg/l)</i>	<i>TSS (mg/l)</i>	<i>TP (mg/l)</i>	<i>Ammonia (mg/l)</i>
Full service restaurant	647	—	7.6	—
Fast food restaurant	620	344	8.6	—
Institutional food service	487	—	7.9	—
Grocery with food preparation	746	600	17.0	64.0
Baked goods or bakery	655	745	—	—

(2) The standard FSE wastewater strengths are established based on sampling at locations within each classification in Big Rapids and are posted on the City's website and will be included in the annual Big Rapids Wastewater User Charge Report. These standard FSE wastewater strengths will be updated annually to reflect the results of ongoing sampling.

(E) *Surcharge rates.*

(1) The Superintendent shall assess a surcharge rate for each FSE user based on the standard FSE wastewater strength for that classification unless sampling is being conducted at the facility. The established surcharge rate for each pollutant and domestic background concentration for each pollutant of concern is updated annually as part of the City's User Charge Report.

(2) Surcharge amounts shall be determined for FSEs by determining the difference between the standard FSE wastewater strength and

the domestic background concentration for that pollutant. The measured flow from the facility shall be applied to determine a cost per pound for each pollutant of concern. A facility may choose to conduct site specific sampling if they believe the standard FSE wastewater strengths listed do not adequately represent their discharge. Sampling procedures and frequency must be approved, and are subject to oversight, by the Superintendent. Costs associated with such sampling and lab analysis would be the responsibility of the user. Surcharge calculations shall then be established by averaging grab or composite (as determined by the City to be appropriate) samples taken from the facility's discharge.

(F) *Site specific testing.*

(1) The owner of a FSE may elect to have the industrial surcharge billed according to representative samples taken at the facility. The FSE

owner is required to pay for installation of a sampling point and all sampling costs. Sampling frequency shall be determined by the City and analytical results shall be submitted to the City for review.

(2) Non domestic users that conduct site specific testing shall install an approved sampling manhole together with any meters and equipment deemed necessary by the Superintendent or the City Manager, in order to adequately sample wastewater. Unrestricted access to the sampling manholes shall be available at all times for the Superintendent. A sampling manhole or chamber must be located near the outlet of each lateral, sewer, drain or pipe which connects to the wastewater system. Site inspections may be conducted by the City to verify the user's discharge and note the presence of any sampling devices or grease traps.

('88 Code, Title II, Ch. 22, § 2.128) (Ord. 163-11-80, passed 11-17-80; Am. Ord. 299-1-91, passed 1-21-91; Am. Ord. 307-7-91, passed 7-1-91; Am. Ord. 325-7-93, passed 7-6-93; Am. Ord. 364-8-94, passed 8-22-94; Am. Ord. 391-8-95, passed 8-7-95; Am. Ord. 405-6-96, passed 6-6-96; Am. Ord. 423-7-97, passed 7-7-97; Am. Ord. 435-6-98, passed 7-1-98; Am. Ord. 448-7-99, passed 7-6-99; Am. Ord. 468-6-00, passed 6-5-00; Am. Ord. 481-6-01, passed 6-4-01; Am. Ord. 495-6-02, passed 6-17-02; Am. Ord. 515-6-03, passed 6-2-03; Am. Ord. 532-06-04, passed 6-7-04; Am. Ord. 537-01-05, passed 1-5-05; Am. Ord. 548-06-05, passed 6-6-05; Am. Ord. 573-10-06, passed 10-2-2006; Am. Ord. 590-10-07, passed 10-15-07; Am. Ord. 613-1-09, passed 11-2-09; Am. Ord. 640-07-11, passed 7-18-11; Am. Ord. 646-5-12, passed 5-21-12; Am. Ord. 669-09-13, passed 9-16-13; Am. Ord. 684-01-15, passed 1-5-15; Am. Ord. 688-03-15, passed 3-16-15; Am. Ord. 694-05-16, passed 5-16-16; Am. Ord. 700-09-16, passed 9-6-16; Am. Ord. 704-06-17, passed 6-5-17; Am. Ord. 727-07-18, passed 7-16-18; Am. Ord. 740-05-19, passed 5-20-19; Am. Ord. 760-06-20, passed 6-15-20)

§ 54.13 UTILITY REFUNDS AND CORRECTED BILLING.

(A) If a customer or the City's Utility Department document that an error has been made in utility billing, the City Treasurer's Office may either bill the customer for the underpayment or credit or refund the overpayment to future utility bills. Adjustments to such utility bills shall be limited to a period of three years.

(B) No penalty or interest will be charged for either overpayment or underpayment of a utility bill.

(C) A courtesy adjustment may be granted to a customer that wishes relief for a water and/or sewer

bill due to leaks in the customer's water system. The customer shall document the basis of their claim, show that the leak has been repaired and submit such claim to the City. Staff shall review the claim and determine any adjustment to be given. The criteria for the adjustment will occur when consumption exceeds 50% of normal usage. The courtesy adjustment may be made for a period not to exceed two months of water /sewer use. Any adjustment may consider consumption in excess of the average of the highest three month period during the previous 12-month period. Any refund found to be due the customer will be credited to the next water/sewer bill. More than one courtesy adjustment per year should not be expected.

(Ord. 502-12-02, passed 12-16-02; Am. Ord. 573-10-06, passed 10-2-06)

§ 54.14 CAPITAL BUY IN CHARGE.

(A) All customers connecting to the public water and/or sanitary sewer system within the City of Big Rapids shall be assessed a Capital Buy in Charge at the time that service is requested. The charge shall apply to all classes of users. The Charge shall be made by a Water Invoice, which shall be paid in full before normal water or sewer service is provided to the facility.

(B) All customers that convert or expand an existing home, apartment or commercial property for additional use or occupancy shall be subject to additional connection fees as allowed in the following sections.

(C) The Capital Buy in Charge shall consist of a Connection Fee and a Construction Fee.

(D) The Connection Fee shall be as specified in the Utility Schedule of Fees, and shall be charged for each Residential Equivalent Unit (REU). REU's shall be based on anticipated water consumption, and shall be defined as 6 units of water use, or fraction thereof, per month. All single family residences shall be considered to be a single REU. All non-residential customers shall estimate the volume of water expected to be used by the customer, and shall provide that estimate to the Department at the time that service is requested. The Department shall then establish the REU's and the charge and shall notify the customer in writing of the charge and shall instruct the Treasurer's Office to issue the Water Invoice. The Department reserves the right to review water consumption annually for a five year period, and adjust the charge for the Connection Fee based on actual water consumption at any time during this period.

(E) The Construction Fee shall be established by the City Manager on a project by project basis and shall apply to initial and future customers that are or may be served by the water or sewer main. The Construction Fee shall reflect the total cost of the water or sewer main, including but not limited to engineering, design, installation, material, inspection, contingencies, legal, administrative and miscellaneous charges. The Department shall prepare, or cause to be prepared, an estimate of the project cost and shall provide the estimate to the City Manager. The City Manager shall then determine the Construction Fee and shall notify initial and future customers of the fee. When construction on the water or sewer main begins, the City Manager shall direct the City Treasurer to prepare the Water Invoice and

send it to those customers that request service. The Department shall maintain a list of charges to be imposed on future customers served by the main, and the Treasurer's Office shall prepare a Water Invoice when such customers request service.
(Ord. 573-10-06, passed 10-2-06)

§ 54.15 UTILITY SCHEDULE OF FEES.

The Utility Schedule of Fees shall include all charges and fees for service provided by the City as imposed by the City Commission from time to time. The charges and fees shall be as shown in the following table.

TABLE OF UTILITY SCHEDULE OF FEES

ISSUE	ASSIGNED FEE	BILLING PROCEDURE
1. Replace a meter	See Note 1	Water Invoice
2. Test 5/8 inch meters	See Note 2	With bill payment
3. Delinquent Account Charges (See Note 3)	\$40.00	With bill payment
4. After-hours Water Turn-on Fee (Additional Charge)	\$100.00	With bill payment
5. Service Line - Replacement - Emergency	See Note 4	Water Invoice
6. Service Line - New -Residential	See Note 5	Before meter is issued by the City
7. Service Line - New - Commercial, Industrial	See Note 5	Before meter is issued by the City
8. Connection Fee - water, per REU	\$600.00	Water Invoice
9. Connection Fee - sewer, per REU	\$600.00	Water Invoice

Note 1: Replacement meters, excluding those replaced due to normal maintenance shall be charged at actual cost. The meter replacement charges shall also include staff time, material and vehicle charges, plus any additional charges the City may incur.

Note 2: When a request is received to test a 5/8 inch meter, the City will install a new meter and add the cost of the meter to the monthly bill. The meter that was removed will then be tested. Meters that are tested and found to have an error of less than or equal to plus or minus 3% of the actual reading comply with the AWWA standards for accuracy. Accordingly, the bill for the cost of the replacement meter, including installation becomes due and payable as part of the monthly bill. If the meter tests outside the acceptable range, the fee for the replacement meter and installation will be deducted from a subsequent monthly bill.

Note 3: Delinquent Account Charges shall apply when the turn off list is generated, regardless of whether or not water service is terminated.

Note 4: Since an exact cost cannot be determined for repairing a water service line, the customer will be billed on a time and materials basis for the actual cost incurred by the City. The Treasurer's Office may allow alternate repayment schedules in hardship cases.

Note 5: Since an exact cost cannot be determined for the installation of a new water service line, the customer will be billed on a time and materials basis for the actual cost incurred by the City. The Treasurer's Office may allow alternate repayment schedules in hardship cases.

Billing System: The Office of the City Treasurer and/or Department of Public Works shall prepare a work order for each activity listed above. The work will be performed by appropriate City staff, who will initial the work order and return it when the activity has been completed. The Treasurer will then issue a Water Invoice to the customer for the work. Payment shall be made in accordance with the Table above. Fees not paid shall subject the customer to termination of service and may be assessed against the property.

(Ord. 573-10-06, passed 10-2-06; Am. Ord. 670-09-13, passed 9-16-13)

CHAPTER 55: STORMWATER CONTROL AND MANAGEMENT

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GENERAL PROVISIONS

§ 55.01 INTENT AND PURPOSE.

(A) *Intent.* The intent of this chapter to establish procedures and standards for the review of drainage patterns and stormwater control structures.

(B) *Purpose.* The purpose for this chapter is to provide the City with a mechanism to control and regulate stormwater runoff and discharge. Uncontrolled stormwater runoff and discharge is known to cause the following adverse effects:

- (1) Soil erosion;
 - (2) Surface water pollution and
sedimentation;
 - (3) Economic loss due to flooding;
 - (4) Jeopardizing the public safety as a
result of flooding; and
 - (5) Impassable or unusable roads and
bridges as a result of flooding.
- (Ord. 420-4-97, passed 4-21-97)

§ 55.02 DEFINITIONS.

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

DIRECTOR OF PUBLIC SERVICES. The Director of Public Services for the City or any designee thereof.

DRAINAGE PATTERNS. The methods by which surface water or groundwater is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent properties.

STORMWATER RUNOFF AND CONTROL FACILITY. The method, structure, area, or related items which are designed to control, store, receive, or convey stormwater from storms or runoff events. Such facilities shall be designed, constructed, and maintained in accordance with standards and criteria developed by the City Office of Public Services. (Ord. 420-4-97, passed 4-21-97)

§ 55.03 APPLICABILITY AND SCOPE; EXEMPTIONS.

(A) *Review required.* Unless exempted by this chapter, no building, parking lot, drive, road, development, or similar item shall be constructed, expanded, added to, or enlarged, and no mass grading of a lot or parcel shall take place without first being reviewed by the Director of Public Services to determine the effects of the proposed project on drainage patterns and stormwater runoff.

(B) *Exemptions.* The following are exempt from review by the Director of Public Services:

(1) Single-family homes, accessory buildings, and accessory uses;

(2) Two-family homes, accessory buildings, and accessory uses;

(3) Interior remodeling, maintenance, and structural alteration for all buildings;

(4) Exterior modifications to all buildings that do not increase the size of the building;

(5) Exterior modifications which, in the opinion of the Director of Public Services, do not increase the amount of stormwater runoff or drainage patterns;

(6) Repairs and maintenance to buildings, parking lots, roads, and similar items which do not affect drainage patterns or stormwater runoffs;

(7) Accessory buildings under 400 square feet in size, and/or accessory buildings that are deemed by the Director of Public Services to have no effect on drainage patterns or stormwater runoff; and

(8) Other structures, buildings, uses, or activities that are deemed by the Director of Public Services to have no effect on drainage patterns or stormwater runoff.
(Ord. 420-4-97, passed 4-21-97)

§ 55.04 REVIEW AND DETERMINATION BY DIRECTOR OF PUBLIC SERVICES.

(A) *Sketch plan required; contents.* To initiate a review and determination of the effects of a proposed project by the Director of Public Services, the applicant or developer shall submit a sketch plan to the Director of Public Services. The sketch plan shall at a minimum include the following:

(1) The names, addresses, and phone numbers of the applicant or developers;

(2) A legal description of the property;

(3) A sketch drawing of the site showing property lines, existing improvements, proposed improvements, and future improvements, if known;

(4) Additional information, such as downstream capacities, calculations, or other pertinent information that will allow the Director of Public Services to determine whether existing stormwater runoff and control facilities are adequate; and

(5) All proposed stormwater flow contributions and control facilities and stormwater connections to the City's stormwater collection or drainage system.

(B) *Method of review by director of public services.*

(1) The Director of Public Services shall review the sketch plan for completeness and for conformance to this chapter. The policies and criteria shall be kept on file at the Office of Public Services and shall be made available to any individual who requests copies. The Director of Public Services may request additional information from the applicant or developer in order to complete the review.

(2) Following the review of the sketch plan, the Director of Public Services shall make a determination of the effects of drainage patterns and stormwater runoff. The determination shall be one of the following:

(a) Determine that the proposed project's drainage/stormwater runoff can be adequately handled by existing drainage or stormwater facilities and that no detailed plan review is necessary and that a storm water permit can be issued; or

(b) Determine that the proposed project's drainage/stormwater runoff is of such flow and/or volume that it cannot be adequately handled by existing facilities and that a detailed plan review is necessary; or

(c) Determine that additional information is necessary to make a finding whether a detailed plan review is necessary or not. (Ord. 420-4-97, passed 4-21-97)

§ 55.05 DETAILED SITE PLAN.

(A) *Applicability.* In the event a detailed site plan is required, the proposed project shall be subject to the requirements of this section.

(B) *Submission of detailed site plan.* In order to initiate a detailed site plan review of the proposed project, the applicant or developer shall submit to the Director of Public Services, three copies of detailed site plans showing at a minimum, the following:

(1) The applicant or developers name, address, and telephone number; and

(2) The legal description, address, and tax parcel number of the property; and

(3) A site plan drawn to a scale of not greater than 1" = 20' for a development of not more than three acres and a scale of not less than 1" = 100' for a development in excess of three acres. The site plan shall illustrate the following:

(a) All property dimensions.

(b) Topographic elevations at two-foot contours. This requirement may be altered or waived by the Director of Public Services.

(c) Water courses and waterways, including man-made improvements.

(d) Existing public and private right-of-ways, easements, and utilities.

(e) Existing and proposed buildings, structures, and other improvements.

(f) A grading plan showing proposed grades and finished floor elevations.

(g) Location, type, and method of stormwater runoff and control facilities.

(h) The name and address of the person or firm that prepared the detailed site plan and the date it was completed.

(C) *Review of detailed site plan.* The Director of Public Services shall review the detailed site plan for conformance and compliance with standards and criteria for designing stormwater runoff and control facilities. The standards and criteria shall be on file in the Office of Public Services and shall be made available upon request. The Director shall provide written notification of approval, request for additional information, or denial of permit within 30 days of receipt of submittals.

(D) *Approval of detailed site plans and stormwater runoff facilities; issuance of permit to connect to City storm sewers.*

(1) In the event that the Director of Public Services determines that the detailed site plan and the proposed stormwater runoff and control facilities

are adequate, the Director shall issue a permit and place a stamp on three sets of plans indicating their approval. One set of plans shall remain in the Office of Community Development, one set of plans shall remain in the Department of Public Services, and the other shall be returned to the applicant or developer.

(2) In those cases where hook-ups or use of the City's storm sewers are approved, the Director of Public Services shall issue to the applicant or developer a permit for hook up or use.

(E) *Rejection of detailed site plan and stormwater runoff facilities.* In the event that the detailed site plan is deemed incomplete and/or the proposed stormwater runoff and control facilities fail to satisfy the standards and criteria for design, the Director of Public Services shall inform the applicant or developer of the rejection by letter. The letter shall indicate the reasons for rejection and describe the steps necessary for correction and approval. (Ord. 420-4-97, passed 4-21-97; Am. Ord. 762-07-20, passed 7-20-20)

§ 55.06 INSPECTION BY CITY TO ASSURE CONFORMANCE TO APPROVED PLANS AND PERMITS.

The City may inspect the installation of, construction of, and maintenance to approved stormwater runoff and control facilities. The purpose of the inspection shall be to assure that the stormwater runoff facilities were constructed, installed, and maintained in accordance with approved plans. In the event it is found by the City that the stormwater runoff [facilities have not been constructed, installed, and maintained in accordance with approved plans, the] Director of Public Services shall notify the applicant or developer and set forth and order any corrective measures in writing. (Ord. 420-4-97, passed 4-21-97)

Editor's note:

The bracketed text was missing from the original enacting ordinance and was inserted at the discretion of the editor.

§ 55.07 FEES.

The City Commission may by resolution establish a schedule of fees for the review of sketch plans, review of detailed site plans and stormwater runoff and

control facilities, and for permits to hook up to City storm sewers. The schedule of fees shall be available for inspection in the City Clerk's office and the Department of Public Services. (Ord. 420-4-97, passed 4-21-97)

§ 55.08 ENFORCEMENT AND PENALTIES.

(A) Any activity carried on in violation of the provisions of this chapter is declared to be a nuisance per se.

(B) Remedies to correct violations shall be carried out in the following manner:

(1) *Stop work orders.* Whenever any work is being done contrary to the provisions of this chapter, the City Manager or his agent shall order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, and any such persons shall stop such work until authorized, in writing, by the City Manager or his agent to proceed with the work.

(2) Penalties.

(a) In addition to the rights and remedies herein provided to the City, any person violating any provision of this chapter shall be deemed responsible of a municipal civil infraction. The penalty for a municipal civil infraction shall be a fine of not less than \$25 and not more than \$500 plus costs. Costs may include all expenses, direct and indirect, to which the City has been put in connections with the municipal civil infraction up to the entry of judgment. The City may seek or employ other remedies and sanctions available under state law for municipal civil infractions. Each day such violation is continued or permitted to continue shall constitute a separate offense and shall be punishable as such.

(b) The penalty for repeat offenses of the same chapter provision within two years of a prior offense shall be a fine of not less than \$50 and not more than \$500, plus costs and all other remedies and sanctions available under state law for municipal civil infractions.

(c) A judgment, order, or abstract of the district court shall establish proof of a prior offense.

(3) *Appearance tickets.* Municipal civil infraction tickets can be issued as citations for violations of this chapter.
(Ord. 420-4-97, passed 4-21-97)

§ 55.09 CONSTRUCTION OF CHAPTER; OTHER APPLICABLE LAW.

The provisions of this chapter shall be construed, whenever possible, to be consistent with and in addition to relevant local, state, and federal regulations, requirements, and standards.
(Ord. 420-4-97, passed 4-21-97)

STORM WATER AND DETENTION TECHNICAL GUIDELINES

§ 55.30 INTENT AND PURPOSE.

The intent of these provisions (§§ 55.30 through 55.35, §§ 55.40 through 55.42, §§ 55.50 through 55.61, and §§ 55.70 and 55.71) is to establish technical procedures and standards for the review of drainage patterns and storm water control structures. The purpose of the chapter is to provide the city of big rapids with a mechanism to control and regulate storm water runoff and discharge.
(Ord. 420-4-97, passed 4-21-97)

§ 55.31 DEFINITIONS.

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

CATCHMENT AREA. The entire area that will contribute flow to the proposed storm drain. Limits of catchment area may or may not coincide with property boundaries.

DETENTION POND. An acceptable storage facility used to contain stormwater runoff and slow the rate of discharge to downstream waters.

DIRECTOR OF PUBLIC SERVICES. The Director of Public Services of the City or his designee.

DRAIN. Either an open or closed conduit intended

to provide for natural or manmade conveyance of stormwater from higher land to a downstream area.

ENGINEER. The engineer, or authorized licensed agent of the City.

HYDRAULIC GRADE LINE. The hydraulic grade line will be taken as the anticipated surface of water taking into account energy losses.

ORIFICE AND WEIR. A specifically designed structure used to regulate the flow rate leaving the detention pond.

PROPRIETOR. Any person, firm, association, partnership, corporation, or combination of any of them, who intends to develop, or improve land.

STORMWATER. Precipitation that disperses as overland flow and does not infiltrate into subsurface soils.
(Ord. 420-4-97, passed 4-21-97)

§ 55.32 STORM WATER DESIGN.

In order to protect the health, safety, and welfare of the citizens of the City, the following design considerations are made to prevent flooding, surface pollution, economic loss, or loss of life.
(Ord. 420-4-97, passed 4-21-97)

§ 55.33 DIRECTION OF FLOW.

Under no circumstances can a development alter the natural direction of flow from its previous direction unless determined unavoidable by the Director of Public Services. The Director will evaluate the change in direction and give written approval detailing conditions of the change. All flow resulting from an approved change will be required to flow into a detention pond as defined by this chapter. The proprietor will minimize the total quantity of flow being redirected.
(Ord. 420-4-97, passed 4-21-97)

§ 55.34 CONNECTIONS AND ASSOCIATED WATER QUALITY.

(A) Storm drains built and discharging to any surface water, or manmade conveyance, whether owned, operated, or maintained by the City, and

traversing the City limits, will be limited to rainfall and naturally occurring overland flow. Discharge of sanitary water, gray water from sinks, bath tubs, washing machines, or any other plumbing fixtures into storm system is prohibited. Other connections prohibited include the direct connection of roof drains to a City sanitary sewer system, and any other connection that will cause or allow pollutant transport.

(B) Specific direct connections that will be required for review and approval of the design and facilities to be allowed include sump pump discharge lines and footing drains. Sump pump connections shall be protected from pollutants entering the sump pit and being pumped into the City storm sewer. (Ord. 420-4-97, passed 4-21-97)

§ 55.35 QUANTITY OF FLOW CALCULATIONS.

(A) Flow calculations submitted to the City shall be based on the rational method " $Q = CIA$ " for developments with catchment areas less than ten acres, where Q is the computed runoff in cubic feet per second (cfs), C is the weighted C factor, I is the intensity for a ten-year storm event, and A is the total acreage in the tributary study area. For developments with catchment areas greater than ten acres, the "TR 55" method or other method acceptable to the Director of Public Services will be used for design.

(B) The weighted C value indicates the percent of runoff expected at peak conditions. The weighted coefficient will be computed as the sum of areas multiplied with the associated C value and then divided by the total drainage area. C values for areas of development will be taken from the following table:

Description of Area	Coefficients
Business	
Downtown areas	0.70 - 0.95
Neighborhood areas	0.50 - 0.70
Residential	
Single-family areas	0.30 - 0.50
Multi-unit, detached	0.40 - 0.60
Multi-unit, attached	0.60 - 0.75
Residential (suburban)	0.25 - 0.40
Apartment dwelling areas	0.50 - 0.70

Description of Area	Coefficients
Industrial	
Light areas	0.50 - 0.80
Heavy areas	0.60 - 0.90
Parks, cemeteries	0.10 - 0.25
Playgrounds	0.20 - 0.35
Railroad yard areas	0.20 - 0.40
Unimproved areas	0.10 - 0.30
Streets	
Asphalt	0.90 - 0.95
Concrete	0.90 - 0.95
Brick	0.80 - 0.90
Drives and walks	0.80 - 0.90
Roofs	0.80 - 0.95
Lawns, sandy soil	
Flat, 2%	0.05 - 0.10
Average, 2% - 7%	0.10 - 0.15
Steep, 7%	0.15 - 0.20
Lawns, heavy soil	
Flat, 2%	0.13 - 0.17
Average, 2% - 7%	0.18 - 0.22
Steep, 7%	0.25 - 0.35

(C) The value used for the intensity shall be obtained using the ten-year storm event as shown in Appendix A. The time of concentration used will be calculated by a reasonable method and presented to the Director of Public Services for review. Developments located in the following zones will require a minimum time of concentration of 5 minutes: Residential/Commercial, Commercial 1, 2, or 3 and Industrial (RC, C-1, C-2, C-3, and I). Residential developments (R-1, R-2, and R-3) will require a minimum time of concentration of 15 minutes.

(D) The total design acreage should include the entire catchment area, either within or contiguous to the developed limits where water traverses to the proposed drain. The proprietor must provide information to delineate the drainage limits and determine the anticipated catchment area.

(E) The Director of Public Services reserves the right to request a field determination of the catchment boundary to be used for design in order to fulfill the intent and purpose of this chapter. (Ord. 420-4-97, passed 4-21-97)

STORM DRAIN DESIGN FACILITIES

§ 55.40 INLET CAPACITIES FOR STORM CATCHMENTS.

Inlet capacities of catch basins will be specifically analyzed according to the anticipated flow calculated by the method detailed in § 55.35 of this chapter. The maximum height of water allowed to pond over inlet structures set in parking, driving, or walking areas will be 0.5 feet from top of grate. The maximum height of water for inlet structures set in road ditches or grassed areas will be 1.5 feet from top of grate. This condition may be waived if, in the opinion of the Director of Public Services, the resulting elevation of water will not cause adverse effects and still fulfills the intent and purpose of this chapter. Under no condition can the water level be more than two feet from the top of casting. (Ord. 420-4-97, passed 4-21-97)

§ 55.41 STORM SEWER NETWORKS AND APPURTENANCES.

(A) The minimum pipe diameter will be 12" and made of reinforced concrete or other material if approved by the Director of Public Services. Drains specifically intended for roof drainage, sump discharge, and footings may be of smaller size. Minimum and maximum grades allowable for any pipe are as follows:

Pipe Diameter	Minimum Pipe Grades	Maximum Pipe Grades
12"	0.32	4.88
15"	0.24	3.62
18"	0.20	2.84
21"	0.16	2.30
24"	0.14	1.94
30"	0.10	1.44
36"	0.08	1.12
42"	0.06	0.92

(B) Catch basins with a 2' sump will be used for all storm inlets. The minimum internal diameter catch basin will be 4', have mastic joints or O-ring joints, have a bituminous sealant between casting and pavement, and be built to meet ASTM C 478. Manholes or catch basins will be set at every intersection of pipe larger than 8", change in grade, change in direction, or at a maximum distance of 350'. Proprietors shall contact the Public Services Department to obtain a list of current castings to be used.

(C) Storm conveyance networks will be designed to provide for the ten-year peak discharge as calculated by § 55.35 of this chapter. The method necessary to analyze pipe or channel hydraulics will be based on Manning's Equation as given below:

$$Q = A * 1.486 / n * (R)^{(2/3)} * (S)^{1/2}$$

where:

- Q = Cumulative flow from ten-year storm event
- A = Cross sectional area of pipe or channel
- R = Hydraulic radius
- S = Slope of hydraulic grade line based on ten-year storm event
- n = Manning's coefficient taken from table below

Typical Manning's Coefficients

Concrete pavement	0.011
Concrete pipe	0.012
Cast iron	0.012
Vitrified clay	0.014
Channel lined with asphalt	0.015
Earth, clean	0.018
Gravel	0.023
Corrugated metal	0.024
Earth with grass and weeds	0.030
Earth with dense weeds and brush	0.080

(D) Storm conveyance channels will be designed to ensure that the elevation of the hydraulic grade line will not permit uncontrolled flooding. If surcharging of manholes will be required to meet the anticipated ten-year storm event, the hydraulic line must be included in the profile view of submitted plans. Calculations supporting drainage requirements for the Director of Public Service's review will also be necessary. (Ord. 420-4-97, passed 4-21-97)

§ 55.42 ADDITIONAL DESIGN CONSTRAINTS.

(A) Velocities in open channels shall not become erosive for the type of soil and type of vegetation anticipated to carry the water. Pipe outlets such as footing drains, farm tiles, sump pump discharges, and other connections to a City-maintained channel will be protected from erosion by means as determined by the Director of Public Services. Typical methods include rip rap, outlet elevations lowered, drop structures, oversized pipe diameter, or other methods as determined necessary.

(B) Pipe outlets will be designed and installed to adequately resist erosion. The proprietor will design adequate channel or bed stabilization using acceptable methods for transition from pipe to channel flow. Any damage incurred to the City storm sewers will be the responsibility of the proprietor.

(C) All charges, including legal fees, will be charged against the proprietor to repair damage resulting from the discharge.
(Ord. 420-4-97, passed 4-21-97)

PEAK FLOW REDUCTION**§ 55.50 STORMWATER DETENTION.**

The intent of this subchapter is to decrease the rate water enters the City storm sewer during peak flows.

(Ord. 420-4-97, passed 4-21-97)

§ 55.51 PROJECTS SUBJECT TO DETENTION REQUIREMENTS.

Land subject to detention requirements includes new development within the City limits or an adjoining parcel that will connect to City storm or drains. All projects requiring detailed storm drain review as defined in § 55.05 will require detention facilities unless specifically mentioned above.

(Ord. 420-4-97, passed 4-21-97)

§ 55.52 SEQUENCING OF PONDS.

Each parcel as described on the date of acceptance of this chapter will have only one pond. If a property is split or is partially developed, the pond calculations will be based on the entire parcel and not limited to the area developed.
(Ord. 420-4-97, passed 4-21-97)

§ 55.53 MAINTENANCE OF STORAGE AREAS.

(A) Maintenance of the detention pond is the responsibility of the property owner. If the property owner is not maintaining the pond and the resulting condition negates the intent and purpose of this chapter, the City will issue a written notice granting ten days to correct the situation. If, after the written notice, the pond is not maintained, the City will post a 24-hour notice to enter the premises and perform the necessary maintenance. Costs associated with the maintenance, including materials, labor, legal fees, and out of pocket expenses incurred by the City will be billed to the property owner.

(B) Examples of maintenance that will be required include but are not limited to the following:

- (1) Periodic inspection of operation;
 - (2) Mowing weeds, grass, and removal of saplings;
 - (3) Removal of sediments from pond bottom;
 - (4) Removal of debris and other non toxic pollutants;
 - (5) Repair of erosion damage; and
 - (6) Maintenance of outlet structures
- (Ord. 420-4-97, passed 4-21-97)

§ 55.54 DESIGN CONSIDERATIONS.

The ponds shall be designed to minimize adverse effects, promote safety, limit the rate drainage leaves the site, and be aesthetically pleasing. Ponds shall be designed to reduce the loss of soil particles and promote a higher quality of water. Such practices may include longer detention ponds, baffles, and other creative methods.
(Ord. 420-4-97, passed 4-21-97)

§ 55.55 DESIGN REQUIREMENTS FOR DETENTION PONDS.

(A) Wherever practical, ponds shall be located in natural depressions or low lands but not in protected wetlands or regulated floodplain areas. Discharge for ponds should be directed towards wetlands where applicable.

(B) All ponds built in the City are required to have all of the following characteristics unless specifically waived by the Director of Public Services:

(1) A minimum of 15-foot buffers must be maintained between adjacent property and the toe of berm for the detention pond.

(2) A maximum of 3:1 side slopes is required for all berms.

(3) The length to width ratio will be no less than 3:1 to promote adequate settling of solids.

(4) All inlets to the pond will produce a nonerosive velocity of storm water when discharged during peak flows. Permanent erosion control measures will be required where exit velocities exceed four feet per second.

(5) The crest of the berm must have a minimum width of five feet around the entire pond.

(6) Pond bottom slopes will be 2% if grassed or 1% if concrete or asphalt is proposed. Concrete or asphalt will be considered for hydraulic purposes only, and proprietors are encouraged to use grass or natural vegetation.

(7) Pond cross slopes will be as listed in subdivision (B)(7).

(8) Maximum depth from the elevation to the emergency spillway and the pond base elevation will be four and a half feet, although three feet is more appropriate.

(9) The toe of any berm may not be any closer than 15 feet from any outbuilding, and 25 feet from any building intended for occupancy.

(10) A method for screening the pond will be submitted for review and approval to ensure that the pond will be aesthetically pleasing to the surrounding properties.

(11) Water loving trees such as willows shall not be planted within 80' of the pond.

(12) All obstacles, such as old farm tiles, that have the potential to affect the design performance will be reported to the Director upon discovery and will be rerouted, removed, or reconfigured to the Director's satisfaction to maintain the intended design of the pond.

(Ord. 420-4-97, passed 4-21-97)

§ 55.56 REQUIRED RELEASE RATE.

The maximum allowable release rate will be determined by the three-year predevelopment conditions. The predeveloped condition will be taken as the three-year intensity multiplied by the weighted C (as determined for the rational formula) but cannot exceed 0.2 cfs per acre. Calculations supporting the release rate will be submitted along with other calculations required. The Director of Public Services may increase or decrease the allowable release rate based on the current capacity of the City storm sewers.

(Ord. 420-4-97, passed 4-21-97)

§ 55.57 REQUIRED STORAGE VOLUME.

(A) The volume of storage required will be based on the difference between the required release rate as determined in § 55.56 and the 25-year fully developed conditions. The acreage used for detention requirements will be taken as the developed property acres. The chart included in the § 55.70 has been provided to aid in the necessary calculations. This form must be attached with all required calculations for site plan approval.

(B) During any storm event, the detention pond will be required to store a minimum of 20% of the total required for a period of 12 hours. The engineer will provide calculations by an acceptable method to demonstrate to the Director of Public Services that the pond is designed to store water for the 12-hour period. The percentage of total storage may be increased or decreased at the discretion of the Director.

(Ord. 420-4-97, passed 4-21-97)

§ 55.58 CONTROLLED OUTLET.

(A) Methods that will be considered as acceptable outlet controls include perforated risers, vertically arranged orifices, horizontally arranged orifices, and broad crested weirs.

(B) The controlled outlet will be properly designed to handle the maximum allowable discharge for the site.

(C) The minimum diameter of pipe that can be utilized for controlled outlets is 6" in diameter. Outlets with multiple holes are acceptable, where fittings such as a solvent weld cap with only one hole drilled in the end will not be acceptable.

(D) The Director of Public Services may request modified outlet conditions, configurations, sizing, and method in order to fulfill the intent and purpose of this chapter.
(Ord. 420-4-97, passed 4-21-97)

§ 55.59 EMERGENCY OUTLET.

(A) The emergency outlet will be designed to handle runoff from the ten-year developed condition for the entire catchment area as defined in § 55.35(D). Acceptable methods that can be used for emergency outlets include but are not limited to concrete lined channel, bituminous lined channel, horizontally arranged orifices, and vertically arranged orifices. The method used must be designed to prevent any channel or bank erosion that would threaten the integrity of the channel or bank.

(B) The design consideration will be such that the amount of water anticipated to reach the pond will be able to leave at the same rate assuming the controlled outlet has been plugged. The necessary elevation for the emergency outlet will be such that the required volume of storage will be maintained.
(Ord. 420-4-97, passed 4-21-97)

§ 55.60 BERM ELEVATION (FREEBOARD).

The maximum height of pond will be calculated based on the type of outlet proposed. Freeboard of at least 0.5' above the highest discharge elevation for the

emergency outlet shall be provided to ensure protection from overtopping and an uncontrolled release.
(Ord. 420-4-97, passed 4-21-97)

§ 55.61 FAILED STORM WATER FACILITY.

If a storm water facility fails during a flood event, the Director of Public Services will request that the pond be reconstructed. Since the existing pond failed, the reconstruction shall be viewed as a new facility and will require a permit in accordance with this chapter.

(Ord. 420-4-97, passed 4-21-97)

FORMS; SCHEDULES**§ 55.70 DETENTION CALCULATION SHEET.**

[The detention calculation sheet is set forth in full on the following page.]

DETENTION CALCULATION SHEET

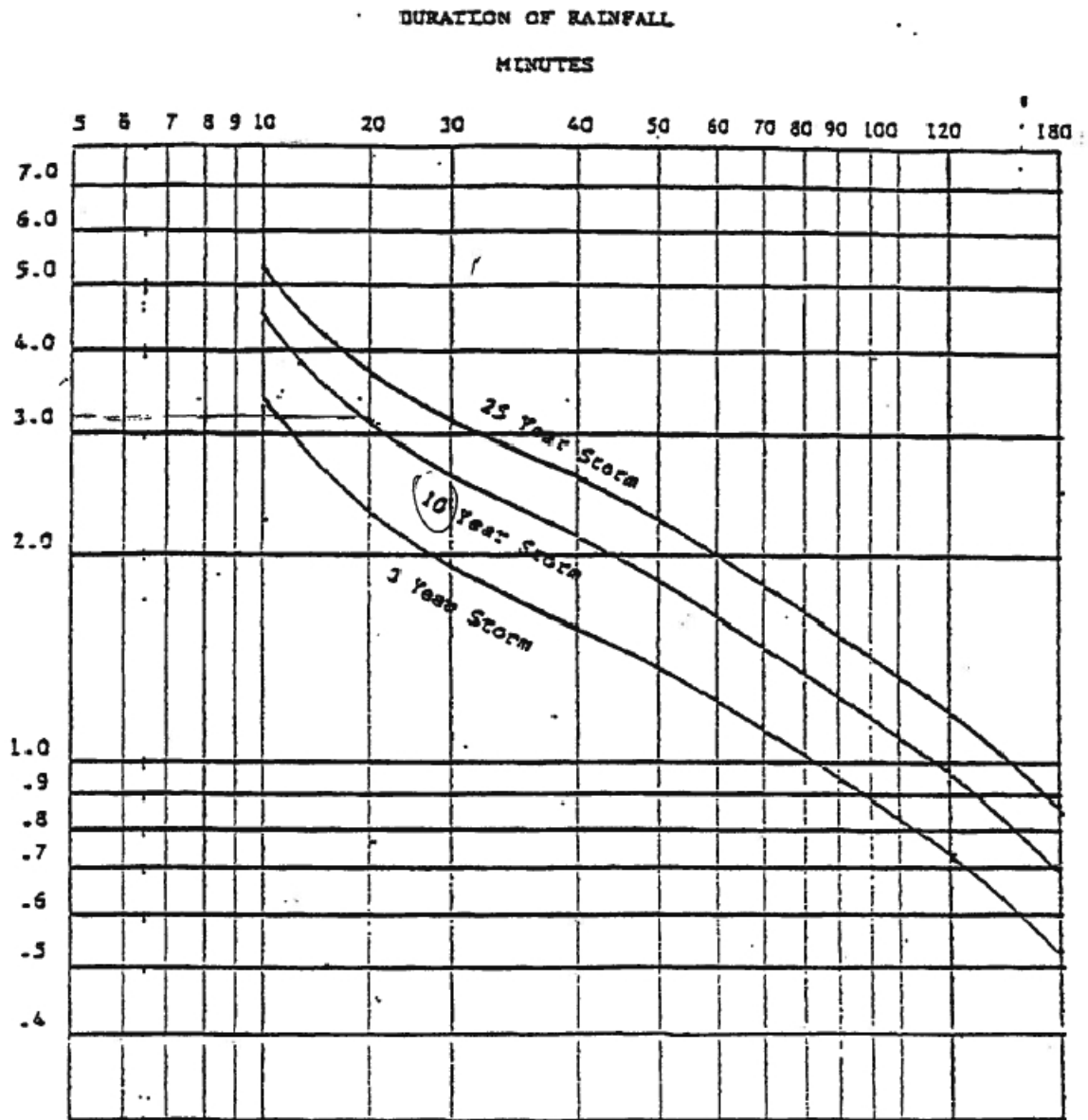
Name of development	
Weighted C Value (A)	
Maximum Allowable Discharge (B)	cfs
Development Area (C)	Acres
Storm Recurrence Interval	25 Year

Time (hour) (D)	Rainfall inch/hour (E)	I*C (E)*(A) (F)	Outlet CPS/ac (B)	Inflow (F)-(B) (G)	Storage (G)/12 (H)	Required Storage (D)*(C)*(H)
0.08	7.40					
0.17	5.80					
0.25	4.70					
0.33	4.18					
0.42	3.65					
0.50	3.25					
0.58	2.95					
0.67	2.77					
0.75	2.60					
0.83	2.48					
0.92	2.30					
1.00	2.12					
1.25	1.78					
1.50	1.55					
2.00	1.25					
2.50	1.06					
3.00	0.88					
3.50	0.78					
4.00	0.70					
Maximum Storage Required in far right hand column						Ac-Ft
Maximum multiplied by 43,560 = Detention Volume Required						CFT

§ 55.71 SCHEDULE OF FEES.

Storm water engineering review: (Am. Ord. 578-03-07, passed 3-19-07)	\$50
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APPENDIX A: RAINFALL CURVE FOR THREE-YEAR, TEN-YEAR AND 25-YEAR STORMS



RAINFALL CURVES FOR
3 YEAR, 10 YEAR AND 25 YEAR STORMS

(Ord. 420-4-97, passed 4-21-07)

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. PARKING VIOLATIONS BUREAU

72. BICYCLES, SKATEBOARDS AND TOY VEHICLES

CHAPTER 70: GENERAL PROVISIONS

Section

70.01	Code adopted
70.02	References in code
70.03	Copies to be available
70.04	Changes in code
70.05	Adoption of additional traffic code provisions

§ 70.01 CODE ADOPTED.

(A) The Michigan Vehicle Code MCL 257.1 to MCL 257.923, is adopted by reference for enforcement by the City of Big Rapids as a local ordinance, as authorized by MCL 117.3(k), for the purpose of enacting and enforcing the provisions of the Michigan Vehicle Code within the City.

(B) Section 257.625(1)(c) of the Michigan Vehicle Code is adopted by reference for enforcement by the City of Big Rapids as a local ordinance, as authorized by MCL 117.3(k) and MCL 117.4(k) for which the violation is punishable by 1 or more of the following:

- (1) Community service for not more than 360 hours.
- (2) Imprisonment for not more than 180 days.
- (3) A fine of not less than \$200 or more than \$700.
(Ord. 464-3-00, passed 3-6-00; Am. Ord. 647-5-12, passed 5-21-12)

§ 70.02 REFERENCES IN CODE.

(A) References in the Michigan Vehicle Code to local authorities shall mean the City of Big Rapids as the local authority enforcing the Michigan Vehicle Code within the City.

(B) Citations to the Michigan Vehicle Code as adopted by the City shall be prefaced with a "C" to identify the local ordinance.
(Ord. 464-3-00, passed 3-6-00)

§ 70.03 COPIES TO BE AVAILABLE.

(A) Printed copies of the Michigan Vehicle Code shall be kept in the office of the City Clerk and shall be available for inspection and distribution to the public.

(B) The City Clerk is directed to publish this ordinance in the *Pioneer*, with notice to the public that a complete copy of the Michigan Vehicle Code is made available to the public at the office of the City Clerk in compliance with state law requiring that records of public bodies be made available to the general public.
(Ord. 464-3-00, passed 3-6-00)

§ 70.04 CHANGES IN CODE.

(A) The following sections and subsections of the Uniform Traffic Code for Cities, Townships and Villages are hereby amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this title shall refer to the like numbered sections of the Uniform Traffic Code.

(B) *Penalty.* Wherever the divisions of this section provide a criminal penalty in violation of the Uniform Traffic Code or the Vehicle Code, Act 300 of the Public Acts of 1949, as amended, this title is amended to change said criminal penalty to a civil infraction with fines or enforcement powers provided by the Uniform Traffic Code or the State Vehicle Code.

(C) Sec. 2.59. Section added to read:

Sec. 2.59. *Current Regulations.* All intersection stops and yield right of way requirements, regulations on stopping, standing or parking; one-way streets, roadways and alleys; crosswalks; restricted turns; through streets; play streets; angle parking zones; all-night parking restrictions; curb loading zones; public carrier stands; parking meter zones and spaces; weight restrictions; no passing zones; speed limits and traffic control devices heretofore established and effective on the effective

date of this Code shall be deemed established hereunder and shall remain effective until rescinded or modified as herein provided.

(D) Section 5.62a is amended to read as follows, and sections 5.62b, 5.62c, 5.62d, and 5.62e are added as new sections:

5.62a

(1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided by law of that suspension or revocation, whose application for license has been denied, or who has never applied for a license shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this city.

(2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this section.

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows: For a first violation, by imprisonment for not more than 93 days or a fine of not more than \$500, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the Secretary of State upon notification by a peace officer.

(4) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the Secretary of State and shall furnish the record to the court. The driving record of the person may be obtained from the Secretary of State's computer information network.

(5) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(6) A person whose vehicle group designation is suspended or revoked and who has been notified as provided by law of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this state, except as permitted under this act, while any of those conditions exists is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not less than three days or more than 93 days or a fine of not more than \$100, or both.

(7) If a person has a second or subsequent suspension or revocation under this section within seven years as indicated on the person's Michigan driving record, the court shall proceed as provided in section 257.904d.

(8) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.

5.62b

(1) When a person is convicted of an offense punishable under section 5.62a for operating a motor vehicle while his or her license to operate a motor vehicle is suspended, revoked, or denied, the court shall order the motor vehicle, if it is owned in whole or in part or leased by that person, impounded for not less than a period the court orders but not more than 120 days from the date of judgment.

(2) An order for the impounding of a motor vehicle issued pursuant to this section is valid throughout the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the vehicle to the storage for insurance coverage purposes.

(3) The owner of a motor vehicle impounded pursuant to this section is liable for expenses incurred in the removal and storage of the vehicle whether or not the vehicle is returned to him or her. The vehicle shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the vehicle is not returned as provided in this section within 30 days after the time set in the impoundment order for return of the vehicle, the vehicle shall be considered an abandoned vehicle and disposed of as provided by law.

(4) This section does not affect the rights of a conditional vendor, chattel mortgagee, or lessor of a motor vehicle registered in the name of another person as owner who becomes subject to this act.

5.62c

(1) When a peace officer detains the driver of a motor vehicle for a violation of a law of this state or local ordinance for which vehicle immobilization is required, the peace officer shall do all of the following;

(a) Immediately confiscate the vehicle's registration plate and destroy it.

(b) Issue a temporary vehicle registration plate for the vehicle in the same form prescribed by the Secretary of State for temporary registration plates issued according to law.

(c) Place the temporary vehicle registration plate on the vehicle in the manner required by the Secretary of State.

(d) Notify the Secretary of State through the law enforcement information network in a form prescribed by the Secretary of State that the registration plate was confiscated and destroyed, and a temporary plate was issued.

(2) A temporary vehicle registration plate issued under this section is valid until the charges against the person are dismissed, the person pleads guilty or nolo contendere to those charges, or the person is found guilty of or is acquitted of those charges.

5.62d

(1) For a violation of section 5.15(1) or (3) the court may order vehicle immobilization for not more than 180 days. For a second violation of 5.15(1) or (3) in any combination arising out of separate incidents, the court shall order vehicle immobilization for not less than 24 days or more than 180 days. For a third or subsequent violation in any combination arising out of separate incidents, the court shall order vehicle immobilization for not less than six months or more than three years.

(2) The defendant shall provide to the court the vehicle identification number and registration plate number of the vehicle involved in the violation.

(3) The court shall not order vehicle immobilization under this section if the defendant is not the owner or lessee of the vehicle operated during the violation unless the owner or lessee knowingly permitted the vehicle to be operated in violation of section 5.15 or section 5.62a regardless of whether a conviction resulted.

(4) An order required to be issued under this section shall not be suspended.

(5) If a defendant is ordered imprisoned for the violation for which immobilization is ordered, the period of immobilization shall begin at the end of the period of imprisonment.

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5.62e

(1) A court shall order a vehicle immobilized by the use of any available technology approved by the court that locks the ignition, wheels, or steering of the vehicle or otherwise prevents any person from operating the vehicle or that prevents the defendant from operating the vehicle. If a vehicle is immobilized under this section, the court may order the vehicle stored at a location and a manner considered appropriate by the court. The court may order the person convicted of violating section 5.15 or a suspension, revocation, or denial under section 5.62a to pay the cost of immobilizing and storing the vehicle.

(2) A vehicle subject to immobilization under this section may be sold during the period of immobilization, but shall not be sold to a person who is exempt from paying a use tax under section 3(3)(a) of the use tax act, 1937 PA 94, MCL 205.93 without a court order.

(3) A defendant who is prohibited from operating a motor vehicle by vehicle immobilization shall not purchase, lease, or otherwise obtain a motor vehicle during the immobilization period.

(4) A person shall not remove, tamper with, or bypass or attempt to remove, tamper with, or bypass a device that he or she knows or has reason to know has been installed on a vehicle by court order for vehicle immobilization or operate or attempt to operate a vehicle that he or she knows or has reason to know has been ordered immobilized.

(5) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100, or both.

(6) To the extent that a local ordinance regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, the local ordinance is preempted.

(7) If a peace officer stops a vehicle that is being operated in violation of an immobilization order, the vehicle shall be impounded pending an order of a court of competent jurisdiction.

(8) The court shall require the defendant or a person who provides immobilization services to the court under this section to certify that a vehicle ordered immobilized by the court is immobilized as required.
(Ord. 454-9-99, passed 9-20-99)

(E) Sec. 5.90(b) Section added to read:

Sec. 5.90(b). *Parking Lots, Unnecessary Noise, Loitering.* No person on the premises of a drive-in restaurant or public parking lot in the City shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop any motor vehicle, blow any horn, or make or cause to be made any other loud or unseemly noise, or disturbance whereby the quiet and good order of the premises of said drive-in restaurant or public parking lot is disturbed. It shall be unlawful for any number of persons to congregate for any time whatsoever at any location on the premises of a drive-in restaurant or a public parking lot other than in the restaurant building or in a legally parked motor vehicle. Any persons so congregating shall be deemed guilty of loitering and shall be punished as prescribed in § 10.99.

(F) Sec. 8.21. Section amended to read as follows:

Sec. 8.21(a). *Parking Meter Zone Areas.* The City Commission is authorized to designate by Traffic Control Order the street or streets or parts thereof or areas within any public parking lot or lots which are to be included within the "Parking Meter Zone Area." Any area so designated shall become subject to the provisions of this section upon the installation and placing in operation of parking meters in such area.

- (a) The City Commission shall by Traffic Control Order establish fees for the parking of any vehicle in a metered parking zone. Parking meters will be used and enforced from 9 a.m. to 5 p.m. except on Sundays and legal holidays or as otherwise indicated on said parking meters. Such fees as thus established shall be posted on signs in the Parking Meter Zone Area so as to give notice thereof to the general public.
- (b) No person shall deface, tamper with, open, break or impair the usefulness of any parking meter, standard or sign.
- (c) No person shall deposit or cause to be deposited in any parking meter any slug, device or metallic substance as a substitute for a coin of the United States.
- (d) If a person parks in violation of a parking meter longer than one hour, the person is subject to a parking meter violation for each hour of said violation.

(Ord. 178-2-83, passed 2-7-83)

Time Prohibited. In every parking meter zone of the City, each parking meter shall be installed and set to display upon the deposit therein of the proper coin, or coins, of the United States as indicated by the instruction on the meter, a signal indicating legal parking or standing for that period of time conforming to the limit of parking time which has been established for that area or zone of the street upon which the parking meter is installed, and shall continue to operate from the time of the deposit of such coin therein until the expiration of the time fixed as the parking limit for the part of the street upon which the meter is placed. Each meter shall also be so regulated that upon the expiration of the legal parking time it will display a signal indicating that the lawful parking period has expired. No person shall deposit any additional coin for the purpose of extending the parking or standing time of any vehicle beyond the legal parking or standing time which has been established for the parking space.

Sec. 8.21(c). *Parking Meters; Coins Required; Regulations.* Whenever any vehicle shall be parked or shall be stood in any space alongside of or next to which a parking meter is located, the operator of the vehicle, upon entering the parking space, shall immediately deposit or cause to be deposited a coin or coins of United States currency as indicated on the parking meter for the desired parking time, in such parking meter and shall place in operation the meter, and the parking space then may be lawfully occupied by the vehicle during the period of parking or standing time which has been prescribed for the part of the street on which the parking space is located. If the vehicle shall remain parked or shall remain standing in any parking space beyond the parking or standing time limit fixed for each parking space, the parking meter shall display a sign or signal showing illegal parking or standing, and in that event such vehicle shall be considered as parked overtime and beyond the period of legal parking or standing time, and the parking or standing of a vehicle where any meter is located shall be a violation of this section and punishable as herein set forth. Any person placing a vehicle in a parking meter space, which meter indicates that unused time has been left thereon by the previous occupant of that space, shall not be required to deposit a coin for the use of the unused time, and after the expiration of the said unused time it shall be lawful to permit this same vehicle to occupy such space or for any person to deposit any coin to extend the parking time to the legal parking time.

Sec. 8.21(d). *Parking Space, Markings; Parking Regulations.* The Chief of Police is directed to mark off individual parking spaces adjacent to each parking meter by placing lines upon the street or curb adjacent to such parking meter for the purpose of designating the space for which the meter is to be used. It shall be unlawful to park any vehicle in such manner that the said vehicle shall not be entirely within the limits of the space so designated. Whenever angle parking is permitted, it shall be unlawful for any person to park any vehicle in any space by backing into such space and the vehicle shall be parked so that the front thereof faces the meter.

Any damage caused to the parking meter shall be assessed against the owner and driver of the vehicle and they shall be liable for same, jointly and severally.

Sec. 8.21(e). *Unlawful Parking.* It shall be unlawful for any person to cause, allow, permit or suffer any vehicle to stand or to be parked overtime beyond the period of legal parking or standing time established for any parking meter zone as herein described.

Sec. 8.21(f). *Extending Parking Time Prohibited.* It shall be unlawful for any person to deposit or cause to be deposited in a parking meter additional coins of United States currency for the purpose of increasing or extending the parking or standing time of any vehicle beyond the legal parking or standing time which has been established for the parking space adjacent to which said parking meter is placed.

(G) Sections 8.25, 8.26 and 8.27. Sections added to read as follows:

Sec. 8.25. *Overtime Parking.* Whenever official signs have been erected upon any street or public parking lot indicating that parking is limited for a definite period of time, no person shall park any vehicle on said street or public parking lot for a longer time than designated on any such sign, and such vehicle may be impounded by the police. This regulation does not apply on Sunday or legal holidays unless so designated on the sign.

Sec. 8.26. *All Night Winter Parking.* In order to permit the City to properly remove all snow and ice from all public ways during the winter months in the most expedient manner, no person shall park a vehicle on any street in the City from November 15

to and including March 15, between the hours of 2:00 a.m. and 6:00 a.m. Vehicles parked in violation of this ordinance may be ticketed and/or impounded by the Police.

(Am. Ord. 488-12-01, passed 12-3-01; Am. Ord. 673-03-14, passed 3-3-14)

Sec. 8.27. *Angle Parking; Method.* It shall be unlawful for any person to angle park any motor vehicle in an unmetered space on any street or in any parking lot with the back of the vehicle closer to the curb or the edge of the roadway than the front of the vehicle is to the curb or edge of the roadway.

(Am. Ord. 356-6-94, passed 6-6-94)

(H) Sec. 8.28. Section added to read as follows:

Sec. 8.28. *Parking on Private Property Prohibited.* No person shall park a vehicle on any private property in the City except when directed by a Police Officer or traffic control device without the express or implied consent, authorization, or ratification of the owner, holder, occupant, lessee, or trustee of the private property. Complaint for violation of this section shall be made by the owner, holder, occupant, lessee, trustee of such property, or the agent of any person in control of such private property.

Vehicles parked in violation of this section shall receive a citation from the Police Department, and if the vehicle is not removed within 48 hours, the vehicle shall be towed, impounded, and stored on premises designated by the Police Department at the vehicle owner's expense. The fine for the violation shall be \$10, and the owner of the vehicle shall pay the towing fee plus \$5 per day storage fee for each day the vehicle is impounded before the vehicle shall be released to the owner. If the vehicle owner desires to contest the parking citation in court, he shall deposit \$35 with the Police Department before the vehicle shall be released from the impoundment. If the vehicle owner successfully contests the parking citations, he shall be refunded his \$35 deposit. If he is not successful, the \$35 shall be applied to the fine, towing charge, and impoundment fee.

(Ord. 144, passed 10-16-78; Am. Ord. 156-9-79, passed 9-17-79; Am. Ord. 165-6-81, passed 6-1-81; Am. Ord. No. 167-12-81, passed 12-21-81; Am. Ord. 178-2-83, passed 2-7-83; Am. Ord. 211-1-86, passed 1-6-86; Am. Ord. 356-6-94, passed 6-6-94)

(I) 8.29. *Parking prohibited on certain streets.* Parking on the following streets and alleys between the hours of 2:00 a.m. and 6:00 a.m. is prohibited, and any vehicles parked there may be impounded by or at the direction of the Department Of Public Safety:

Big Rapids - Traffic Code

- (a) S. Warren Avenue between Maple Street and Elm Street;
- (b) N. Warren Avenue between Maple Street and Pine Street;
- (c) S. Michigan Avenue between Maple Street and Linden Street;
- (d) N. Michigan Avenue between Maple Street and Pine Street;
- (e) Elm Street between Stewart and S. State Street;
- (f) Maple Street between Warren Avenue and State Street;
- (g) Pine Street between N. Warren Avenue and N. State Street;
- (h) West side alley parallel to S. Michigan Avenue between Maple Street and Elm Street; and

- (I) West side alley parallel to N. Michigan Avenue between Maple Street and Pine Street.

(Ord. 291-9-90, passed 9-17-90)
(‘88 Code, Title X, Ch. 126, § 10.4)

(J) 8.30. *Parking prohibited on front yard not designated and approved for parking.* No person shall park a motor vehicle on a front yard not designated and approved for parking. The front yard shall be defined as the area of private property that is located between the public right-of-way and the front line of the primary structure on the property. Parking of any motor vehicle within this area shall be prohibited. Exception: Vehicles may be parked in a driveway which extends from a public street to an area located outside the front yard.

(Ord. 461-1-00, passed 1-18-00)

(K) 8.31. *Parking on Lawn Extension.* No person shall drive upon, park or stand any vehicle between the curb or curb line and the lot line nearest the street, said area being commonly known as the lawn extension, whether or not any sidewalk or curb is actually in place on such street. This provision shall not be construed as prohibiting parking on a driveway apron.

(Ord. 416-1-00, passed 1-18-00)

(L) 8.32 *Parking on an area without an approved curb cut.* No person shall park a motor vehicle on any area which is not accessible by an approved curb cut and drive apron. This location shall be defined as any area which does not have access by way of a curb cut or drive apron to a public street. Exception: Vehicles may be parked on driveways and on defined parking areas on curbless streets.
(Ord. 461-1-00, passed 1-18-00)

§ 70.05 ADOPTION OF ADDITIONAL TRAFFIC CODE PROVISIONS.

The City of Big Rapids adopts sections 5.33, 5.34, 5.48, 5.49, 5.69, 5.90(a), 8.6, 8.10(1)(n), of the Uniform Traffic Code, with all violations being civil infractions, and renumbers the sections to be consistent with Chapter 70 of the Big Rapids City Code.

(A) 70.05(1). *Obedience to no-turn sign.* When authorized signs are erected indicating that right, left, or U-turns are not permitted, a driver of a vehicle shall not disobey the directions of any such sign.

(B) 70.05(2). *Limitations on turning around.* The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction on any street in a business district and shall not, on any other street, so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

(C) 70.05(3). *Driving on sidewalk prohibited.* The driver of a vehicle shall not drive on or within any sidewalk area, except at a driveway.

(D) 70.05(4). *Limitations on backing.*

(1) The driver of a vehicle shall not back the vehicle unless the movement can be made with reasonable safety and without interfering with other traffic.

(2) A vehicle shall not be backed a distance of more than 60 feet.

(3) A vehicle shall not be backed into an intersection; except that a vehicle may be backed into an intersection when it is not otherwise possible to turn about and when such movement can be made safely without interfering with other traffic.

(E) *70.05(5). License plates required.* A person shall not park on the streets of this governmental unit any vehicle which is required to be registered, unless the vehicle bears valid registration plates issued for it.

(F) *70.05(6). Operation of vehicle with unnecessary noise prohibited.* A person shall not operate a motor vehicle with unnecessary noise and shall not start, move, or turn a motor vehicle or apply the brakes or the power on a motor vehicle or in any manner operate the vehicle so as to cause the tires to squeal or the tires or vehicle to make any noise not usually connected with the operation of the motor vehicle, except in case of an emergency.

(G) *70.05(7). Vehicle starting from parked position.* A vehicle starting from a parked position shall yield to moving vehicles the right-of-way, and the operator of such vehicle shall give a timely and visible warning signal before so starting.

(H) *70.05(8). Stopping, standing, or parking vehicles.* A person shall not stop, stand, or park a vehicle within 200 feet of an accident at which police officers are in attendance, except when necessary to avoid conflict with other traffic or to comply with the law or the directions of a police officer or traffic control device.

(I) *70.05(9). Penalty; civil infraction.* Any person who violates section 70.05(1), 70.05(2), 70.05(3), 70.05(4), 70.05(5), 70.05(6), 70.05(7), or 70.05(8) shall be responsible for a civil infraction.
(Ord. 477-04-01, passed 4-9-01)

CHAPTER 71: PARKING VIOLATIONS BUREAU

Section

- 71.01 Bureau established
- 71.02 Location
- 71.03 Disposition of violations
- 71.04 Procedure
- 71.05 Violation ticket
- 71.06 Schedule of violations
- 71.07 Authorization for service officer program
- 71.08 Training of service officers

violation in which case any person having knowledge of the facts may make a sworn complaint before the court having jurisdiction of the offense as provided by law.

('88 Code, Title X, Ch. 127, § 10.3)

§ 71.01 BUREAU ESTABLISHED.

Pursuant to Section 8395 of the Revised Judicature Act, State of Michigan, as added by Public Act 154 of 1968, a parking violations bureau, for the purpose of handling alleged parking violations within the City, is hereby established. The Parking Violations Bureau shall be under the supervision and control of the Chief of Police.

('88 Code, Title X, Ch. 127, § 10.21)

§ 71.02 LOCATION.

The Chief of Police shall, subject to the approval of the City Commission, establish a convenient location for the Parking Violations Bureau, appoint qualified City employees to administer the Bureau and adopt rules and regulations for the operation thereof.

('88 Code, Title X, Ch. 127, § 10.22)

§ 71.03 DISPOSITION OF VIOLATIONS.

No violation not scheduled in § 71.06 shall be disposed of by the Parking Violations Bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the Bureau and in any case the person in charge of such Bureau may refuse to dispose of such

§ 71.04 PROCEDURE.

No violation may be settled at the Parking Violations Bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense and in no case shall the person who is in charge of the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the Parking Violations Bureau and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the Parking Violations Bureau shall not prejudice him or in any way diminish the rights, privileges and protection accorded to him by law.

('88 Code, Title X, Ch. 127, § 10.4)

§ 71.05 VIOLATION TICKET.

The issuance of a traffic ticket or notice of violation by a police officer of the City shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau. It shall also indicate the address of the Bureau, the hours during which the Bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such a person fails to respond within the time limited.

('88 Code, Title X, Ch. 127, § 10.5)

§ 71.06 SCHEDULE OF VIOLATIONS.(A) *Schedule of violations.*

Violations	Penalty
Parking too far from curb	\$ 15
Angle parking violations	15
Obstructing traffic	15
Prohibited parking (signs unnecessary):	
On front yard not designated and approved for parking	25
On lawn extension	15
On an area without an approved curb cut	15
On sidewalk	15
On street, 2:00 a.m. - 6:00 a.m. from November 15 to March 15	15
In front of drive	15
Within intersection	15
Within 15 feet of hydrant	15
On crosswalk	15
Within 20 feet of cross walk or within 15 feet of corner lot lines	15
Within 30 feet of street side traffic sign or signal	15
Within 50 feet of railroad crossing	15
Within 20 feet of fire station entrance	15
Within 75 feet of fire station entrance on opposite side of street (signs required)	15
Beside street excavation when traffic obstructed	15
Double parking	15
On bridge of viaduct or within tunnel	15
Within 200 feet of accident where police in attendance	15
In front of theater	15
Blocking emergency exit	15
On private property	25
In prohibited zone (sign required)	15
In alley	15
Parking in violation of two or three hour time restrictions	15
Parking for prohibited purpose:	
Displaying vehicle for sale	15
Working on or repairing vehicle	15
Displaying advertising	15
Selling merchandise	15
Storage over 48 hours	15
Wrong side boulevard roadway	15
Loading zone violation	15
Bus, parking other than at bus stop	15
Taxicab, parking other than at cab stand	15
Bus, taxicab stand violations	15
Meters, not parked within space	15

Violations **Penalty**

Failure to set brakes	15
Parked on grade, wheels not turned to curb	15
Parked in a designated handicapped zone	100
Parked in front yard area not improved or designated for parking	25
Failure to display a windshield placard when parked in a designated handicapped parking space	15

An additional \$10 shall be added to all violations not paid within 48 hours, excluding Sundays and legal holidays; and after 30 days an additional \$20 shall be added to all violations, and after 90 days an additional \$20 shall be added to all violations

Violations **Penalty**

Bicycle parking violation	\$ 3
Meter violations	*5
Storage on impounded vehicles (per day)	5

*If paid within 48 hours - \$ 3

(B) The Building Inspector, Zoning Administrator, and Code Enforcement Officer of the Department of Community Development staff shall be authorized to issue tickets for the following violations:

(1) Parking prohibited on front yard not designated and approved for parking;

(2) Parking on lawn extension; and

(3) Parking on an area without an approved curb cut.

('88 Code, Title X, Ch. 127, § 10.26) (Ord. 231-4-87, passed 8-20-87; Am. Ord. 357-6-94, passed 6-6-94; Am. Ord. 460-1-00, passed 1-18-00; Am. Ord. 472-10-00, passed 11-16-00; Am. Ord. 516-6-03, passed 6-2-03; Am. Ord. 544-05-05, passed 5-2-05; Am. Ord. 565-04-06, passed 4-17-06; Am. Ord. 579-04-07, passed 4-2-07; Am. Ord. 673-03-14, passed 3-3-14; Am. Ord. 676-07-14, passed 7-7-14; Am. Ord. 689-03-15, passed 3-16-15; Am. Ord. 762-07-20, passed 7-20-20)

§ 71.07 AUTHORIZATION OF SERVICE OFFICER PROGRAM.

The City Commission hereby authorizes a program to train and utilize persons other than police

officers as volunteer service officers to issue citations for parking violations as described in MCL 257.675d, and these trained volunteer service officers can be paid.

(Ord. 746-09-19, passed 9-3-19)

§ 71.08 TRAINING OF SERVICE OFFICERS.

The Department of Public Safety is authorized and required to implement and administer the program to train and utilize volunteer service officers to issue citations for parking violations listed in MCL 257.675d after the service officers receive not less than eight hours of training in parking enforcement.

(Ord. 746-09-19, passed 9-3-19)

CHAPTER 72: BICYCLES, SKATEBOARDS AND TOY VEHICLES

Section

General Provisions

- 72.01 Skateboards, roller skates, and the like

Bicycles

- 72.15 Driver regulations applicable
72.16 Responsibility of parents
72.17 License required
72.18 License application
72.19 Issuance of license
72.20 License decal
72.21 Inspection of bicycles
72.22 Transfer of ownership
72.23 Rental agencies
72.24 Bicycle dealers
72.25 Obedience to traffic control devices
72.26 Riding on bicycles
72.27 Riding on roadways and bicycle paths
72.28 Speed
72.29 Emerging from alley or driveway
72.30 Clinging to vehicles
72.31 Carrying articles
72.32 Parking
72.33 Riding on sidewalks
72.34 Equipment; lights
72.35 Rules
72.36 Violations — juveniles under 16

72.99 Penalty

identified in the Zoning Ordinance, except that the use of in-line skates or roller skates is permitted within this area between the hours of 6:00 p.m. and 11:00 p.m. EST. The Zoning Map depicting the district shall be available for inspection in the office of the City Clerk.

(B) This section does not regulate the use of wheelchairs or similar devices designed to transport or assist handicapped persons.

(C) No person shall use any skateboard, roller skates, coaster, scooter or similar wheeled device on any bench, table, planter, wall or other fixture located in or along any public roadway, street, alley, sidewalk, parking lot or other area open to the general public.

(D) No person shall use any skateboard, roller skates, coaster, scooter or similar wheeled device on any public roadway, street, alley, sidewalk, parking lot or other area open to the general public in a manner that hinders, impedes or otherwise interferes with the passage of pedestrians on all public roadways, streets, alleys, sidewalks and parking lots.

(E) No person shall use any vehicle, motorcycle or bicycle to tow another person or any skateboard, roller skates, coaster, scooter or similar wheeled device.
(Ord. 290-7-90, passed 7-16-90; Am. Ord. 421-6-97, passed 6-16-97) Penalty, see § 72.99

GENERAL PROVISIONS

§ 72.01 SKATEBOARDS, ROLLER SKATES, AND THE LIKE.

(A) The use of any skateboard, roller skates, coaster, or other similar wheeled device is prohibited on any sidewalk, public parking area, roadway, alley, street, or other area open to the general public in the Central Business District, C-2 zoning district, as

BICYCLES

§ 72.15 DRIVER REGULATIONS APPLICABLE.

Every person riding a bicycle upon a street or highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under Chapter 70, except as to those provisions which by their nature can have no application. **BICYCLE** shall have the meaning prescribed in the Uniform Traffic Code adopted in § 70.01.
(‘88 Code, Title X, Ch. 128, § 10.51)

§ 72.16 RESPONSIBILITY OF PARENTS.

No parent of any child, nor guardian of any ward, shall authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

('88 Code, Title X, Ch. 128, § 10.52)

§ 72.17 LICENSE REQUIRED.

No person, who resides within this City, shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles, unless such bicycle has been licensed and a license plate is attached thereto as provided herein.

('88 Code, Title X, Ch. 128, § 10.53)

§ 72.18 LICENSE APPLICATION.

Application for a bicycle license and license decal shall be made upon a form provided by the City and shall be made to the Chief of Police. An annual license fee of \$.25 shall be paid to the City before each license shall be granted. All bicycle licenses shall be renewed during the month of June of each year and any person who has not renewed his bicycle license on or before July first of each year shall be in violation hereof if the bicycle is used on any street or upon any public path set aside for the exclusive use of bicycles.

('88 Code, Title X, Ch. 128, § 10.54)

§ 72.19 ISSUANCE OF LICENSE.

(A) The Chief of Police shall not issue a license for any bicycle when he knows or has reasonable ground to believe that the applicant is not the owner of, or entitled to the possession of, such bicycle.

(B) The Chief of Police shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, and the number on the frame of the bicycle for which issued, and a record of all license fees collected by him.

('88 Code, Title X, Ch. 128, § 10.55)

§ 72.20 LICENSE DECAL.

(A) The Chief of Police upon issuing a bicycle license shall also issue a license decal bearing the license number assigned to the bicycle and the name

of the City.

(B) The Chief of Police shall cause such license decal to be firmly attached to the rear mudguard or frame of the bicycle for which issued in such position as to be plainly visible from the rear.

(C) No person shall remove a license decal from a bicycle except upon a transfer of ownership or in the event the bicycle is dismantled and no longer operated upon any street in the City.

('88 Code, Title X, Ch. 128, § 10.56)

§ 72.21 INSPECTION OF BICYCLES.

The Chief of Police, or an officer assigned such responsibility, shall inspect each bicycle before licensing the same and shall refuse a license for any bicycle which he determines is in unsafe mechanical condition.

('88 Code, Title X, Ch. 128, § 10.57)

§ 72.22 TRANSFER OF OWNERSHIP.

Upon the sale or other transfer of ownership of a licensed bicycle, the licensee shall remove the license decal and shall either surrender the same to the Chief of Police or may, upon proper application but without payment of additional fee, have the decal assigned to the transferee or to another bicycle owned by the applicant.

('88 Code, Title X, Ch. 128, § 10.58)

§ 72.23 RENTAL AGENCIES.

A rental agency shall not rent or offer any bicycle for rent, unless the bicycle is licensed and a license decal is attached thereto as provided herein and such bicycle is equipped with the lamps and other equipment required in this chapter.

('88 Code, Title X, Ch. 128, § 10.59)

§ 72.24 BICYCLE DEALERS.

Each person engaged in the business of buying or selling new or second-hand bicycles shall make a report to the Chief of Police of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, a description of such bicycle by name or

make, the frame number thereof, and the number of license decal, if any, found thereon.
(‘88 Code, Title X, Ch. 128, § 10.60)

§ 72.25 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

(A) Each person, operating a bicycle shall obey the instructions of official traffic control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(B) Whenever authorized signs are erected indicating that no right or left or “U” turn is permitted, no person, operating a bicycle, shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians,
(‘88 Code, Title X, Ch. 128, § 10.61)

§ 72.26 RIDING ON BICYCLES.

(A) No person, propelling a bicycle, shall ride other than astride a permanent and regular seat attached thereto.

(B) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
(‘88 Code, Title X, Ch. 128, § 10.62)

§ 72.27 RIDING ON ROADWAYS AND BICYCLE PATHS.

(A) Each person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) No person, riding a bicycle upon a street or highway shall ride more than two abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles.

(C) Whenever a usable path for bicycles has been provided adjacent to a street or highway, bicycle

riders shall use such path and shall not use the street or highway.
(‘88 Code, Title X, Ch. 128, § 10.63)

§ 72.28 SPEED.

(A) No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(B) If any person riding a bicycle on any street or sidewalk under such conditions as may interfere with the safety of such person or any pedestrian, or any other vehicle, then the operator of the bicycle shall dismount and walk through such district or area.
(‘88 Code, Title X, Ch. 128, § 10.64)

§ 72.29 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a bicycle, emerging from an alley, driveway, or building, shall, upon approaching a sidewalk or the sidewalk area extending across any alley-way, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.
(‘88 Code, Title X, Ch. 128, § 10.65)

§ 72.30 CLINGING TO VEHICLES.

No person, operating a bicycle, shall attach the same or himself to any vehicle upon a roadway.
(‘88 Code, Title X, Ch. 128, § 10.66)

§ 72.31 CARRYING ARTICLES.

No person, operating a bicycle, shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.
(‘88 Code, Title X, Ch. 128, § 10.67)

§ 72.32 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.
(‘88 Code, Title X, Ch. 128, § 10.68)

§ 72.33 RIDING ON SIDEWALKS.

(A) Whenever any person is riding a bicycle upon a sidewalk such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(B) No person shall ride any bicycle on the sidewalk or street of Parkview Drive in Parkview Village in the City, and shall dismount before entering Parkview Village.

(C) No person shall ride any bicycle on the sidewalk on Maple Street from Warren Avenue to the alley west of Michigan Avenue and on Michigan Avenue from Elm Street to the north line of the first crosswalk north of Maple Street.

(D) No person shall ride any bicycle on the walkway of the Maple Street Bridge or the Baldwin Street Bridge.
(‘88 Code, Title X, Ch. 128, § 10.69) (Am. Ord. 171-5-82, passed 5-17-82)

§ 72.34 EQUIPMENT; LIGHTS.

(A) Each bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(B) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(C) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
(‘88 Code, Title X, Ch. 128, § 10.70)

§ 72.35 RULES.

The City Manager is hereby authorized to promulgate such rules and regulations as he may deem necessary for the enforcement of this chapter.
(‘88 Code, Title X, Ch. 128, § 10.71)

§ 72.36 VIOLATIONS — JUVENILES UNDER 16.

(A) In all cases where juveniles under 16 are charged with a first offense for the violation of this chapter the officer shall issue a violation ticket to the juvenile which shall require that the juvenile obtain the signature of his parent or guardian on said violation ticket and return the same to the Police Department within 48 hours after issuance.

(B) In the event of failure to return such violation ticket signed as hereinbefore required, the officer or any person having knowledge of the offense may proceed against the juvenile for such violation in the manner prescribed by law.
(‘88 Code, Title X, Ch. 128, § 10.72)

§ 72.99 PENALTY.

Any person who violates any skateboard, roller skate, or bicycle regulation in Title VII, Chapter 72, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97, except that the fine shall not be more than \$50, plus the impounding of the skateboard, roller skates, coaster, scooter, or similar wheeled device by the Department of Public Safety for not more than 60 days.
(Ord. 290-7-90, passed 7-16-90; Am. Ord. 427-10-97, passed 10-6-97)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. NUISANCES**
- 91. ANIMALS**
- 92. PARKS**
- 93. TREES**
- 94. STREETS AND SIDEWALKS**
- 95. ADVERTISEMENTS**
- 96. FIRE PREVENTION REGULATIONS**
- 97. FAIR HOUSING**
- 98. TRAVEL TRAILERS**
- 99. ALARM SYSTEMS**
- 100. PROPERTY DISPOSITION**

CHAPTER 90: NUISANCES

Section

General Provisions

- 90.01 Definition
- 90.02 Drainage of lots
- 90.03 Smoke and air pollution
- 90.04 Vibration from industrial or commercial district; construction exempt

Noise

- 90.15 Noises prohibited
- 90.16 Exceptions
- 90.17 Noise restrictions for industrial and commercial zoning districts
- 90.18 Construction activity
- 90.19 Trucks

Grass and Weeds

- 90.25 Findings and purpose
- 90.26 Restrictions, exceptions
- 90.27 Notice to owner or occupant to remove
- 90.28 Abatement of nuisance

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- 90.30 Deposit of unwholesome substances
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Blight Prevention

- 90.35 Blight conditions; findings and purpose
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Dangerous Structures

- 90.45 Dangerous structures
- 90.46 Condemnation; notice and hearing
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Radio and Television Interference

- 90.55 Radio and television interference prohibited
- 90.56 Inspection
- 90.57 Notice of violation
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Junk Automobiles

- 90.70 Disabled and inoperable motor vehicles

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- 90.80 Legislative findings
- 90.81 Definitions
- 90.82 Declaration of public nuisance
- 90.83 Procedure for declaration of a public nuisance
- 90.84 Abatement of nuisance and costs
- 90.85 Finding of public nuisance
- 90.86 Notification to owners
- 90.87 Appeal
- 90.88 Posting and listing of public nuisances
- 90.89 Entry into or use of vacated property
- 90.99 Penalty

Cross-reference:

Nuisance parties, see §§ 130.15 through 130.17

GENERAL PROVISIONS

§ 90.01 DEFINITION.

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

PUBLIC NUISANCE. Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; interferes with or destroys or renders dangerous any street, highway or navigable stream; allows accumulation of junk or obnoxious matters on private property; or in any way renders the public insecure in life or property. "Public nuisance" shall include, but not be limited to, whatever is forbidden by any provisions of this chapter and the common and statute law of this state.

('88 Code, Title IX, Ch. 109, § 9.1)

§ 90.02 DRAINAGE OF LOTS.

If any lands, excavations, cellar, vault, sewer, drain, place or premises within the City shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce offensive exhalations, the City Commission or Health Officer may require the same to be drained, filled up, cleansed or purified by the owner, or occupant, or person in charge of such lot, premises or place.

('88 Code, Title IX, Ch. 109, § 9.51) Penalty, see § 90.99

§ 90.03 SMOKE AND AIR POLLUTION.

No individual or individuals shall cause, suffer or allow to be discharged in the atmosphere from any source other than ships, marine vessels, railroad locomotives, or air or land transport vehicles, smoke the shade or appearance of which is equivalent to, or greater than, that density described as No. 2 of the Ringelmann Chart, provided, however, that smoke, the shade or appearance of which is equivalent to, but not darker than, No. 2 of the Ringelmann Chart for a period or periods aggregating four minutes in any 30 minutes shall be permitted and provided further, that smoke, the shade or appearance of which is equivalent to, but not darker than, No. 3 of the Ringelmann Chart for a period or periods aggregating three minutes in any 15 minutes shall also be permitted when building new fire or when breakdown or malfunctioning of equipment occurs such as to make it evident that the emission was not reasonably preventable.

(Ord. 250-8-88, passed 8-15-88) Penalty, see § 90.99

§ 90.04 VIBRATION FROM INDUSTRIAL OR COMMERCIAL DISTRICT; CONSTRUCTION EXEMPT.

No commercial or industrial district use shall generate any ground transmitted vibration that is perceptible to the human sense of touch of a panel of healthy observers measured at either the outside boundary of the immediate space occupied by the enterprise generating the vibration if the enterprise is one of several located on the lot or the lot line if the enterprise generating the vibration is the only enterprise located on a lot. Vibrations resulting from construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section.

(Ord. 250-8-88, passed 8-15-88) Penalty, see § 90.99

NOISE

§ 90.15 NOISES PROHIBITED.

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

(A) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(B) *Radio and musical instruments.* The playing of any radio, television, phonograph, or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity;

(C) *Shouting and whistling.* Yelling, shouting, hooting, whistling or singing or the making of any other loud noise on the public streets, between the hours of

11:00 p.m. and 7:00 a.m. or the making of any such noise at any time so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(D) *Hawking.* The hawking of goods, merchandise or newspapers in a loud and boisterous manner.

(E) *Animal and bird noises.* The keeping of any animals or birds which by causing frequent or long continued noise shall disturb the comfort or repose of any person.

(F) *Whistle or siren.* The blowing of any whistle or siren, except as a warning of fire or danger.

(G) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which effectively prevents loud explosive noises therefrom.

(H) *Construction noises.* The erection, including excavating, demolition, alteration, or repair of any building, the excavation of streets and highways, other than between the hours of 7:00 a.m. and 6:00 p.m. unless a permit be first obtained from the Department of Public Works.

(I) *Handling merchandise.* The creating of a loud and excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(J) *Devices to attract attention.* The use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose.

(K) *Noise or commotion.* To make a commotion or make unnecessarily loud noises, whereby the peace and good order of the neighborhood is disturbed, or persons owning or occupying property in the neighborhood are disturbed or annoyed.

(L) *Sound trucks.* To operate or cause to be operated a sound truck with radio or amplifier within the City without first having obtained a permit therefor from the City Commission.
(‘88 Code, Title IX, Ch. 109, § 9.21) Penalty, see § 90.99

§ 90.16 EXCEPTIONS.

None of the prohibitions in § 90.15 shall apply to or be enforced against any police or fire vehicle of the City or ambulance while engaged upon necessary public emergency business; necessary excavations or repairs of bridges, streets, or

highways by, or on behalf of the City, county or state during the night, when the public safety, welfare, and convenience renders it impossible to perform such work during the day; the reasonable use of stationary amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.
(‘88 Code, Title IX, Ch. 109, § 9.22)

§ 90.17 NOISE RESTRICTIONS FOR INDUSTRIAL AND COMMERCIAL ZONING DISTRICTS.

(A) No Industrial District (I) and C-1, C-2 and C-3 Commercial District uses shall generate noise that tends to have an annoying or disruptive effect upon uses located outside the immediate space occupied by the I, C-1, C-2 and C-3 district uses if those uses be one of several located on a lot or uses located on adjacent lots.

(B) Except as provided in division (F), the table set forth in division (E) establishes the maximum permissible noise levels for I, C-1, C-2 and C-3 district uses. Measurements shall be taken at the boundary line of lot where those uses are located, and, as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the district uses identified in division (A) are located.

(C) A **DECIBEL** is a measure of a unit of sound pressure. Since sound waves having the same decibel level “sound” louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e., whether pitch of the sound is high or low), and A-weighted filter constructed in accordance with the specifications of the American Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on and sound level meter taking measurements required by this section. And accordingly, all measurements are expressed in db(A) to reflect the use of this A-weighted filter.

(D) The standards established in the table set forth in division (E) are expressed in terms of the Equivalent Sound Level (Leq), which must be

calculated by taking 100 instantaneous A-weighted sound levels at 10-second intervals.

(E) *Table of Maximum Permitted Sound Levels, dB(A).*

(re: 0.0002 Microbar)

Zoning of Lot Where Use Located	<u>Zoning of Adjacent Lot</u>		<u>Where Use Located</u>	<u>Zoning of Adjacent Lot</u>		<u>Where Use Located</u>
	<i>R-1, R-2, R-3, RC</i>	<i>C-1, C-2, C-3</i>		<i>R-1, R-2, R-3, RC</i>	<i>C-1, C-2, C-3</i>	
	(A)*	(B)*		(A)*	(B)*	
	(A)*	(B)**		(A)*	(B)*	
I	65	55		70	60	75 70
C-1, C-2, 60 C-3	65	55		70	60	7 0

* 7:00 a.m. to 10:00 p.m.
a.m.

** 10:00 p.m. to 7:00
a.m.

(F) **SPIKE NOISES** are sounds that occur intermittently rather than continuously. Spike noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of 10 db(A) in excess of the figures listed in division (E), except that this higher level of permissible noise shall not apply from 10:00 p.m. to 7:00 a.m. when the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter.
(Ord. 250-8-88, passed 8-15-88) Penalty, see § 90.99

§ 90.18 CONSTRUCTION ACTIVITY.

Noise resulting from construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of § 90.18.
(Ord. 250-8-88, passed 8-15-88)

§ 90.19 TRUCKS.

No trucks while stationary on an industrial or commercial district use shall make any noise greater than the standard established in the table in § 90.17(E) for a period or periods aggregating 15 minutes in any hour.
(Ord. 250-8-88, passed 8-15-88) Penalty, see § 90.99

GRASS AND WEEDS

§ 90.25 FINDINGS AND PURPOSE.

The City Commission finds the failure to cut and mow grass and weeds in the City creates a nuisance. Such failure to act is harmful to the health and well-being and is contrary to the general welfare of the residents. Specifically, the failure to mow the grass and cut weeds in the City:

(A) Creates a nuisance in that weeds are permitted to seed and spread onto the lawns of neighbors.

(B) Creates a health hazard in the lawns overgrown with weeds and contributes to the amount and spread of pollen, affecting those who suffer from allergies.

(C) Affects property appearances and thus the value of adjoining properties.

(D) Creates a danger of crime where unkept lawns may give rise to an assumption that premises are unoccupied.

(E) Creates an environment to which rodents and other undesirable pests are attracted.

(F) Affects the public welfare by reflecting negatively on the City and its citizens.
(Ord. 275-6-89, passed 6-23-89) Penalty, see § 90.99

§ 90.26 RESTRICTIONS, EXCEPTIONS.

(A) It shall be unlawful for any owner and /or occupant of any real estate within the City to allow or maintain on any portion of such real estate and into the right-of-way one foot beyond any curb or pavement line adjacent to such real estate any growth of vegetation not edible or planted for some useful or ornamental purpose that:

(1) Exceeds six inches in height;

(2) Blocks, impedes and/or obstructs stormwater runoff;

(3) Grows in sidewalks or other walking areas, or between sidewalk and curbing with a service strip;

- (4) Emits any unpleasant or noxious odor;
- (5) Conceals a filthy deposit; or
- (6) Creates or produces pollen

(B) This section shall not be enforced with respect to weeds, grass, or similar vegetation when such growth is more than 50 feet from land owned by any other person or from any street or alley or with respect to the common boundary or adjoining unused vacant lots.

(Ord. 275-6-89, passed 6-23-89; Am. Ord. 306-7-91, passed 7-1-91) Penalty, see § 90.99

§ 90.27 NOTICE TO OWNER OR OCCUPANT TO REMOVE.

(A) Whenever it shall be reported to or observed by the Department of Community Development or the Department of Public Safety that any owner or occupant of real property has failed to comply with any of the terms of § 90.26, the Department of Community Development shall cause notice to be delivered in the manner prescribed in § 10.14 directing the owner or occupant to comply within five days.

(B) Any person failing to mow the grass or cut the weeds within five days of the posting, mailing, or actual receipt of the notice to do so, shall be responsible for a municipal civil infraction and subject to the penalty prescribed in § 90.99.

(Ord. 275-6-89, passed 6-23-89; Am. Ord. 465-4-00, passed 4-17-00; Am. Ord. 626-07-10, passed 7-6-10; Am. Ord. 762-07-20, passed 7-20-20) Penalty, see § 90.99

§ 90.28 ABATEMENT OF NUISANCE.

(A) In the event the owner or occupant fails to mow the grass and cut the weeds within five days of the posting, mailing, or actual receipt of the notice to do so, the Department of Community Development may have the offending vegetation cut and removed. When such an action is taken the owner shall be billed for the cost of the work plus an administrative fee of 20%. The costs and fees shall be in addition to fines and costs for municipal civil infractions. Costs and fees may be collected by any procedure authorized by law.

(B) After notice has been delivered personally or by certified mail to the owner at least once in any growing season (May through October) additional notices during that same growing season can be delivered to or posted at the site with copies sent by

first class mail to the owner and occupant, but no citation shall be issued and no abatement ordered by the Department of Community Development shall occur until the tenth day after delivery or posting and mailing of the notice.

(Ord. 275-6-89, passed 6-23-89; Am. Ord. 465-4-00, passed 4-17-00; Am. Ord. 626-07-10, passed 7-6-10; Am. Ord. 762-07-20, passed 7-20-20) Penalty, see § 90.99

LITTER

§ 90.30 DEPOSIT OF UNWHOLESOME SUBSTANCES.

No person shall by himself or by another, throw, place, deposit or leave in the street, lane, alley, public place or square, any animal or vegetable substance, dead animals, fish, shavings, dirt, rubbish, excrement, filth, unclean or nauseous water or liquor, hay, straw, soot, offal, garbage, swill, or any other article or substance whatever which may cause any offensive, unwholesome, or nauseous smell, or endanger the health of the public.

('88 Code, Title IX, Ch. 109, § 9.45) Penalty, see § 90.99

§ 90.31 DEPOSIT OF INJURIOUS SUBSTANCES.

No person shall by himself or by another, throw, place, deposit or leave in any street, highway, lane, alley, public place or square, or in any private place or premises, any glass, broken or unbroken, or any metal, stone, earthenware, tacks, cinders or other substances of a nature likely to cause injury to travelers or pedestrians, automobiles, bicycles, or vehicles, or to injure any horse or other animal or which might injure, cut or puncture any pneumatic tire.

('88 Code, Title IX, Ch. 109, § 9.46) Penalty, see § 90.99

BLIGHT PREVENTION

§ 90.35 BLIGHT CONDITIONS; FINDINGS AND PURPOSE.

The City Commission hereby finds and determines that conditions of blight contribute to the deterioration of areas and neighborhoods within the City. Such conditions of blight cause, create or constitute a nuisance, and are harmful to the health,

well-being and welfare of City residents and the general public. Specifically, the failure to keep real property free from blight conditions in the City:

(A) Creates a nuisance in that litter and other materials scatter into yards of neighbors.

(B) Affects property appearances and thus, decreases the value of adjoining properties.

(C) Creates an environment to which rodents and other undesirable pests are attracted.

(D) Creates a danger of crime where substandard building conditions or facilities may give rise to an assumption that premises are unoccupied.

(E) Affects the public welfare by reflecting negatively on the City and its citizens.
(Ord. 304-4-91, passed 6-17-91) Penalty, see § 90.99

§ 90.36 RESTRICTIONS; EXCEPTIONS.

(A) It shall be unlawful for any owner or occupant of real property within the City to allow or maintain on any portion of such real property the following:

(1) Building materials unless such materials are stored in a completely enclosed building or there is a valid building permit issued for construction on that property and the stored materials are to be used in that construction. **BUILDING MATERIALS** shall include, but not be limited to, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws and tools.

(2) Litter, junk, trash, rubbish or garbage or other unwholesome, hazardous or injurious substances. For the purpose of this section, the term **JUNK** includes, but is not necessarily limited to, equipment and machines or parts therefrom, motor vehicle parts, appliances, furniture, remnants of lumber, metal, plastic or other material of a cast-off nature, whether or not such material could be put to any reasonable use, unless such items are stored completely in an enclosed building.

(3) Any vacant dwelling, garage or other outbuilding that is not kept securely closed, with windows glazed or neatly boarded up or otherwise secured to prevent entrance by vandals.

(4) Any structure or portion thereof that is no longer habitable or useful for any discernible legal purpose.

(5) Any partially completed structure, unless such structure is in the course of construction pursuant to a valid building permit.

(B) This section shall not be enforced when the structures, activities or uses identified in division (A) are incidental to and necessary for the operation of any business or occupation lawfully operating on the property.

(C) A person who violates any provision of this section shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97.
(Ord. 304-4-91, passed 6-17-91; Am. Ord. 442-2-99, passed 2-4-99; Am. Ord. 459-1-00, passed 1-3-00) Penalty, see § 90.99

§ 90.37 IGNITION, DISCHARGE, AND USE OF CONSUMER FIREWORKS.

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

ACT. The Michigan Fireworks Safety Act, MCL 28.451 *et seq.*

CONSUMER FIREWORKS. Fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. **CONSUMER FIREWORKS** do not include low-impact fireworks.

LOW-IMPACT FIREWORKS. Ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

(B) *Prohibitions.* A person shall not ignite, discharge, or use consumer fireworks within the City, except this section does not prohibit the ignition, discharge or use of consumer fireworks on the following days after 11:00 a.m.:

(1) December 31 until 1:00 a.m. on January 1;

(2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days;

(3) June 29 to July 4 until 11:45 p.m. on each of those days;

(4) July 5, if that date is a Friday or Saturday, until 11:45 p.m.;

(5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(C) A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises.

(D) A person shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, or controlled substance, or a combination thereof.

(E) A person shall not recklessly endanger the life, health, safety, or property of another person by the ignition, discharge, or use of consumer fireworks.

(F) *Violations and penalties.* A violation of this section shall be a municipal civil infraction with a fine of \$1,000 for each violation of the section and no other fine or sanction. \$500 of the fine collected under this section shall be remitted to the local law enforcement agency responsible for enforcing this section, which is the Department of Public Safety.

(Ord. 668-09-13, passed 9-3-13; Am. Ord. 679-09-14, passed 9-2-14; Am. Ord. 744-07-19, passed 7-15-19)

§ 90.38 ABATEMENT OF BLIGHT.

(A) The City Commission finds and determines that conditions of blight constitute a nuisance that can be abated by the Department of Community Development.

(B) Whenever conditions of blight are reported to or observed by the Department of Public Safety or the Department of Community Development, regardless of whether or not a municipal civil infraction citation has been issued for the condition of blight, the Department of Community Development can give notice in the manner prescribed in § 10.14 to the owner or occupant, or both, directing the removal, elimination, or corrections of the blighted condition within five calendar days.

(C) In the event the owner and/or occupant fails to remove, eliminate or correct the condition of blight within five days after receiving the notice, the Department of Community Development may abate the condition of blight by removing, eliminating, or correcting it. When such an action is taken, the owner shall be billed for the actual cost of the work plus an administrative fee of 20% of the actual cost. The cost and fee shall be in addition to fines and costs assessed upon a finding of responsibility for a municipal civil infraction.

(D) The City Manager may direct abatement of any blight condition within 24 hours of giving notice pursuant to § 10.14 that such condition be removed or eliminated if the condition present a clear and present danger to the public health, safety or general welfare of City residents requiring immediate abatement action. If such an action is taken, the costs of such action shall be calculated in the same manner as in subsection (C) of this section.
(Ord. 304-4-91, passed 6-17-91; Am. Ord. 459-1-00, passed 1-3-00; Am. Ord. 762-07-20, passed 7-20-20)
Penalty, see § 90.99

DANGEROUS STRUCTURES**§ 90.45 DANGEROUS STRUCTURES.**

No person shall maintain any structure which is unsafe or which is a menace to the health, morals or safety of the public.
(‘88 Code, Title IX, Ch. 109, § 9.11) Penalty, see § 90.99

§ 90.46 CONDEMNATION; NOTICE AND HEARING.

The City Commission may, after notice to the owner and after holding a public hearing thereon, condemn such structure by giving notice to the owner of the land upon which such structure is located, specifying in what respects said structure is a public nuisance and requiring said owner to alter, repair, tear down or remove the same within such reasonable time, not exceeding 60 days, as may be necessary to do or have done the work required by said notice. The notice may also provide a reasonable time within which such work shall be commenced.

(‘88 Code, Title IX, Ch. 109, § 9.12)

§ 90.47 ABATEMENT.

If, at the expiration of any time limit in the notice, the owner has not complied with the requirements thereof, the City Manager shall carry out the requirements of the notice. The cost of such abatement shall be charged against the premises and the owner thereof in accordance with the provisions of Section 3.4 of the Charter.

(‘88 Code, Title IX, Ch. 109, § 9.13)

§ 90.48 EMERGENCY ABATEMENT.

The City Manager may abate any such public nuisance, if the public safety requires immediate action, without preliminary order of the City Commission. Thereafter the cost of abating such nuisance shall be charged against the premises and the owner thereof in accordance with the provisions of Section 3.4 of the Charter.

(‘88 Code, Title IX, Ch. 109, § 9.14)

RADIO AND TELEVISION INTERFERENCE**§ 90.55 RADIO AND TELEVISION INTERFERENCE PROHIBITED.**

No person shall maintain or operate any equipment, device, appliance, or apparatus in the City which generates or causes high frequency oscillations which interfere with radio or television

transmitting or reception; except, that X-ray pictures, examinations, or treatments and diathermy treatments may be made if the machine or apparatus therefor is equipped to avoid all unnecessary or unreasonable interference and are not negligently operated.

('88 Code, Title IX, Ch. 109, § 9.27) Penalty, see § 90.99

§ 90.56 INSPECTION.

The City Engineer may designate a radio inspector, to investigate complaints of interference with radio and television transmitting, and reception and he is hereby given authority, upon presenting his evidence of authority, to have a right of access to any premises at any reasonable hour for the purpose of inspecting any equipment, device, appliance, or apparatus coming within the terms of this subchapter to determine if such equipment, device, appliance, and apparatus complies with the terms of this subchapter, and no person shall interfere with the Radio Inspector in making such inspection or refuse to allow the Radio Inspector to enter upon the premises for such purpose.

('88 Code, Title IX, Ch. 109, § 9.28) Penalty, see § 90.99

§ 90.57 NOTICE OF VIOLATION.

Whenever an inspection and test shall have been made by the Radio Inspector, and it is found that such equipment, device, appliance, or apparatus is being operated in violation of this subchapter, the person responsible for such operation shall be notified in writing to discontinue the use of such equipment, device, appliance or apparatus or to make additions, repairs, or modifications thereof, in order that the same may be operated in a manner which complies with the provisions of this chapter. Such notice may be given personally to the person or by registered mail, addressed to the person. In the event that the person, within 48 hours after receipt of such notice to repair or discontinue the use of said equipment, device, appliance or apparatus, does not discontinue its use or repair the same so that it complies with this subchapter, such person shall be deemed to be operating the same in violation thereof.

('88 Code, Title IX, Ch. 109, § 9.29) Penalty, see § 90.99

§ 90.58 INTERFERENCE WITH POLICE RADIO.

The operation of any machine, mechanical device, electrical device, or thing that interferes with, or causes static in the operation of the police radio system is hereby declared to be a public nuisance; the operator of the machine or device shall immediately discontinue the use of the equipment upon being notified of its interference with the police radio system and shall not again place the same in operation until it has been repaired or modified so as not to interfere with the police radio system.

('88 Code, Title IX, Ch. 109, § 9.30) Penalty, see § 90.99

§ 90.59 FEDERAL LICENSEES.

No provisions of this subchapter shall be construed as regulating any equipment, device, appliance or apparatus used in interstate commerce where the same is licensed or regulated by or under any Act of Congress of the United States.

('88 Code, Title IX, Ch. 109, § 9.31)

JUNK AUTOMOBILES

§ 90.70 DISABLED AND INOPERABLE MOTOR VEHICLES.

(A) A disabled or inoperable motor vehicle is one that is not currently registered and licensed for operation upon the highways of the state, or is not otherwise operable because of missing, damaged, or broken equipment.

(B) It shall be unlawful to keep or store a disabled or inoperable motor vehicle on any parcel of real property within the City of Big Rapids for more than 14 days, except in a completely enclosed building or at a state licensed business that engages in the sale, repair, or dismantling of motor vehicles.

(C) Any disabled or inoperable motor vehicle kept or stored in a manner contrary to this section shall be affixed with a sticker explaining that the

motor vehicle must be repaired, registered and licensed in compliance with this section, moved within a completely enclosed building, or moved to a state licensed business engaged in the sale, repair, or dismantling of motor vehicles, within 14 days of the date the sticker is placed on the motor vehicle. A record shall be kept of the date and time the sticker is placed on the motor vehicle, the location of the motor vehicle, and the disabled or inoperable status of the motor vehicle.

(D) Upon expiration of the 14 days reflected on the sticker, the registered owner of the motor vehicle and/or the owner of the real property where the motor vehicle is kept or stored contrary to the terms of this section can be cited by way of an appearance ticket for a violation of this section. Each day after the 14 days shall constitute a separate violation of this section.

(E) The Zoning Administrator, Code Enforcement Officer, Property Maintenance Inspectors and Service Officers within the City of Big Rapids Department of Public Safety are authorized to investigate and issue appearance tickets for a violation of this section, which shall be a municipal civil infraction punishable as provided in § 10.97.

(F) The presence of one or more disabled or inoperable motor vehicles in violation of this section shall constitute a condition of blight within the meaning of § 90.35, which is also determined to be a nuisance subject to abatement by the City, but only after expiration of the 14 day period described in the sticker affixed to the motor vehicle.

(Ord. 442-2-99, passed 2-4-99; Am. Ord. 509-02-03, passed 2-3-03; Am. Ord. 676-07-14, passed 7-7-14)

REPEATED ILLEGAL ACTIVITY INVOLVING CONTROLLED SUBSTANCES OR ALCOHOL

§ 90.80 LEGISLATIVE FINDINGS.

The City Commission determines that whenever the repeated illegal use, sale, distribution, furnishing or possession of controlled substances or alcoholic beverages occurs on any real property, or whenever any real property is used repeatedly for the violation of laws regulating controlled substances, alcoholic beverages, or nuisance parties, a public nuisance may result. A public nuisance results from the increased criminal activity that occurs within the surrounding neighborhood, the increased pedestrian

and vehicular traffic within the surrounding neighborhood, the increased noise and public disturbances that occur within the surrounding neighborhood by reason of loud music, yelling and screaming, brawls, domestic violence, damage to personal property, litter and public urination, and the fear engendered in the minds of neighbors living in the surrounding neighborhood.

(Ord. 483-8-01, passed 8-6-01)

§ 90.81 DEFINITIONS.

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

CITY COMMISSION. The Big Rapids City Commission or a special committee of the Big Rapids City Commission.

NUISANCE PARTY. An incident defined in the Big Rapids City Code (see § 130.15) as a nuisance party.

OWNER. Any person who possesses or holds any legal or equitable interest in real property.

OWNER also includes any person who holds, exercises or delegates any control, custody or dominion over real property whether or not that person has or claims to have any legal or equitable interest in the real property. **OWNER** specifically includes tenants, whether or not identified in a written lease.

REAL PROPERTY means any land, house, structure, building, dwelling, apartment, premises, or any part thereof.

REPEATED and **REPEATEDLY.** Three or more times within any nine-month period.
(Ord. 483-8-01, passed 8-6-01)

§ 90.82 DECLARATION OF PUBLIC NUISANCE.

Whenever one of these specified incidents or conditions occurs or exists repeatedly on any real property within the City of Big Rapids, the City Commission may declare by resolution that the real property is a public nuisance, and may order the nuisance abated:

(A) The illegal use, sale, distribution, furnishing or possession of a controlled substance; or

(B) The illegal use, sale, distribution, furnishing or possession of an alcoholic beverage; or

(C) Holding, sponsoring, causing, or allowing a nuisance party.
(Ord. 483-8-01, passed 8-6-01)

§ 90.83 PROCEDURE FOR DECLARATION OF A PUBLIC NUISANCE.

A declaration of a public nuisance under this chapter by the City Commission shall occur according to the following procedure.

(A) A declaration of a public nuisance can occur only after a formal complaint is filed by the City's Director of Public Safety and notice is given to the owner of the real property and the owner has had an opportunity to be heard at a public evidentiary hearing before the City Commission.

(B) Notice of the public evidentiary hearing shall be given to the owner by personal service or certified mail to the address indicated by the City Assessor's records, the Mecosta County Register of Deeds records, and the City's Community Development Department records. The notice shall state the nature of the alleged public nuisance, and the time, date and location of the hearing. Certified mail shall be delivered with a return receipt requested. Notice to an owner shall occur at least seven calendar days prior to the date of the hearing. Notice shall be given to any and all persons who have an ownership interest in the real property, including record title owners, mortgage holders, tenants, and trustees, whose ownership interest is reflected in the records described above. Notice shall be posted on the real property at least seven calendar days prior to the date of the hearing.

(C) The City Commission shall act as a municipal administrative agency, functioning in a quasi-judicial capacity as authorized by state law and its Charter, when determining whether or not a public nuisance exists under the standards established in this Chapter. The City Commission shall make this determination based solely on evidence presented at the public evidentiary hearing, of which a record shall be made and kept. In conducting the public evidentiary hearing, the City Commission shall afford an owner and City personnel an opportunity to present evidence and make arguments as to factual and legal issues. Cross-examination of opposing witnesses shall be permitted. An owner may appear in person or be represented by an attorney, but lay representation

shall not be permitted. In conducting the public evidentiary hearing, the City Commission can admit and give weight to probative evidence of a nature commonly relied upon by reasonably prudent individuals in the conduct of their affairs. The City Commission shall not be bound by the Michigan Rules of Evidence. Irrelevant, incompetent and unduly repetitious evidence shall be excluded.

(D) The City Commission shall make factual findings at the close of the public evidentiary hearing, determining at a minimum:

- (1) The street address and legal description of the property; and
- (2) The owner(s) of the real property; and
- (3) The number and nature of specified incidents or conditions; and
- (4) The time frame in which these occurred or existed; and
- (5) The nature of the alleged public nuisance; and
- (6) The actions taken by the owner to prevent or abate the specified incidents or conditions.

(E) The declaration of a public nuisance and any order of abatement must be by an affirmative vote of not less than four City Commission members. (Ord. 483-8-01, passed 8-6-01; Am. Ord. 762-07-20, passed 7-20-20)

§ 90.84 ABATEMENT OF NUISANCE AND COSTS.

If the City Commission determines by resolution that any real property is a public nuisance according to the provisions of this Chapter, and after giving due consideration to the actions taken by the owner to prevent or abate the specified incidents or conditions, it may order abatement of the public nuisance in addition to any other remedies available at law or in equity. The order of abatement can be entered at the public evidentiary hearing on the alleged public nuisance, or at a later hearing noticed out in the same manner as the public evidentiary hearing. The City Commission may receive additional evidence on the issue of abatement.

(A) If it is determined that all or a portion of the real property should be vacated to abate the public nuisance, the City Commission shall order the real property vacated and declare occupancy of all or a

portion of the real property prohibited, which shall authorize the Director of Public Safety to prohibit occupancy by padlocking, boarding, or otherwise securing the real property, for up to one year as determined by the City Commission based upon the evidence.

(B) The City Commission may determine and order that the owner shall be liable for the full cost of materials and personnel, including City employees and contractors, utilized in padlocking, boarding or securing the real property, and subsequent or remedial actions required to keep the real property vacant for the abatement period.

(C) The City Commission may order the costs assessed against the real property and collected as taxes.

(D) The City Commission may revoke the housing maintenance certificate for any real property determined to be a public nuisance, and the real property shall not be occupied by a tenant until a housing maintenance certificate has been requested and issued according to § 151.20.

(E) Where only a discrete area of the real property is involved in the illegal activity giving rise to the declaration of a public nuisance, the City Commission shall not order any other part of the real property vacated. By the way of example, if only a single apartment in a multiple unit structure is the site of the incidents or conditions specified in this Chapter, then the City Commission shall vacate the single apartment, and not the entire structure. (Ord. 483-8-01, passed 8-6-01; Am. Ord. 567-06-06, passed 6-5-06)

§ 90.85 FINDING OF PUBLIC NUISANCE.

(A) The City Commission may find that a public nuisance exists if any three or more of the following listed incidents or conditions occur within a nine-month period, as established by evidence presented at the public evidentiary hearing.

(1) The real property has been searched by law enforcement officers and an illegal controlled substance has been found on site.

(2) The real property has been the site of a nuisance party as defined in the Big Rapids City Code.

(3) The real property has been the site of the illegal use, sale, distribution, furnishing or possession of a controlled substance or an alcoholic beverage.

(B) A rebuttable presumption that a public nuisance exists at the real property arises when one of the incidents or conditions occurs or exists and notice of it is given by personal service or certified mail to the owner with an explanation of the potential consequences if similar activities occurs at the property within nine months, and if two or more specified incidents or conditions occur or are found to exist within nine months of the first.

(C) The nine month period shall be extended by the number of days the real property is ordered padlocked.

(Ord. 483-8-01, passed 8-6-01; Am. Ord. 567-06-06, passed 6-5-06)

§ 90.86 NOTIFICATION TO OWNERS.

The notice of a specified incident or condition, and the notice of a public evidentiary hearing, as sent to an owner by certified mail or personal service, shall include a report of each specified incident or condition describing the date, location, persons known to be involved, and the nature of the underlying illegal activity.

(Ord. 483-8-01, passed 8-6-01)

§ 90.87 APPEAL.

(A) An owner of real property aggrieved by any final decision or order of the City Commission under this chapter may appeal to the Circuit Court within 21 days of the date of the decision or order.

(B) The Circuit Court shall consider the appeal on the record made before the City Commission. The Circuit Court shall review the record and determine if the City Commission's decision or order

(1) Complies with state and local law,

(2) Is supported by competent, substantial and material evidence on the record as a whole, and

(3) Involves the reasonable exercise of discretion.

(Ord. 483-8-01, passed 8-6-01)

§ 90.88 POSTING AND LISTING OF PUBLIC NUISANCES.

(A) Whenever the City Commission declares real property is a public nuisance and orders the nuisance abated by ordering that the real property be vacated, the Department of Public Safety shall post a notice so stating at every entrance to each building on the real property, and at the entrance to each dwelling unit or other portion of the real property ordered vacated.

(B) The City Clerk and Department of Community Development shall maintain a list of those real properties declared to be public nuisances, and the order of abatement or other remedies ordered by the City Commission. Any person requesting a copy of the list shall be supplied one at no charge. The list shall be available for public inspection at the City Clerk's office.

(C) No person other than an authorized City employee shall tamper with, deface, alter, damage or remove the notice posted by the Department of Public Safety.

(Ord. 483-8-01, passed 8-6-01; Am. Ord. 762-07-20, passed 7-20-20)

§ 90.89 ENTRY INTO OR USE OF VACATED PROPERTY.

No person shall enter or use any real property declared to be a public nuisance and ordered vacated by the City Commission. It shall be an affirmative defense to a prosecution under this section that written permission to enter or use the property was obtained from the Director of Public Safety.

(Ord. 483-8-01, passed 8-6-01)

§ 90.99 PENALTY.

(A) Any person who violates any noise ordinance regulation specified in § 10.97(A)(2), nuisance and litter provision specified in § 10.97(A)(3), blight and junk ordinance regulation specified in § 10.97(A)(4), or radio and television interference ordinance regulation specified in § 10.97(A)(5), or any regulation in Chapter 90, other than those specified in division (B) of this section, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97.

(Ord. 427-10-97, passed 10-6-97; Am. Ord. 459-1-00, passed 1-1-00)

(B) Any person who violates § 90.88(C) or § 90.89 shall be subject to the following minimum criminal penalties which shall be assessed in addition to any other lawful sentence the Court may impose.

(1) For a first violation, a fine of not less than \$175 nor more than \$500.

(2) For a second violation, a fine of not less than \$300 nor more than \$500 and imprisonment for not less than ten days nor more than 90 days.

(3) For a third or subsequent violation, a fine of not less than \$400 nor more than \$500 and imprisonment for not less than 30 days nor more than 90 days.

(Ord. 483-8-01, passed 8-6-01)

CHAPTER 91: ANIMALS

Section

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GENERAL PROVISIONS

§ 91.01 GOATS AND SWINE PROHIBITED.

It shall be unlawful for any person to keep live goats or swine on any premises within the City; except in slaughterhouses or yards adjacent thereto; and as required to conduct the weekly stock sale. ('88 Code, Title IX, Ch. 110, § 9.71) Penalty, see § 91.99

§ 91.02 ANIMALS PROHIBITED; EXCEPTIONS.

It shall be unlawful for any person to keep any animal or fowl except chickens within 500 feet of any dwelling, street, alley or public place; permit any animal or any fowl owned by him or in his possession or control to run at large in any street, alley or public place, or upon the premises of another without express permission of the owner or occupant thereof, except such animals as are commonly kept or housed as household pets.

('88 Code, Title IX, Ch. 110, § 9.72) (Am. Ord. 708-07-17, passed 7-17-17) Penalty, see § 91.99

§ 91.03 CHICKENS PERMITTED.

Up to three chickens may be kept per single-family residential parcel of land under the following conditions and limitations:

(A) In a fully enclosed area within the back yard, set ten feet back from the boundary and 40 feet from neighboring residences, with a coop no larger than 200 square feet suitable for roosting that is kept clean.

(B) Roosters are prohibited.

(C) No slaughter of chickens on site.

(D) The owner of the chickens must be a resident of the property where the chickens are kept.

(E) With a two-year temporary permit issued by the City and a fee of \$25.
(Ord. 708-07-17, passed 7-17-17)

§ 91.04 DISTURBING BIRDS.

It shall be unlawful for any person to willfully injure, molest, or disturb in any way any birds or the

nest, eggs, young or brood of any such birds, except that this provision shall not apply to any birds declared by any law or this code to be "pests." ('88 Code, Title IX, Ch. 110, § 9.73) (Am. Ord. 708-07-17, passed 7-17-17) Penalty, see § 91.99

§ 91.05 SICK OR DEAD ANIMALS.

It shall be unlawful for any person to deposit, throw or place any dead or fatally sick or injured animal, or part thereof, on any public or private place, or into or on the banks of any stream, lake, pond, sewer or other body of water. ('88 Code, Title IX, Ch. 110, § 9.75) Penalty, see § 91.99

§ 91.06 POISONOUS SUBSTANCES PROHIBITED.

It shall be unlawful to throw or deposit poisoned meat, or any poison or harmful substances in any street, alley or public place, or on any private premises within the City, for the purpose of destroying any dog, bird, fowl or other animal. ('88 Code, Title IX, Ch. 110, § 9.76) Penalty, see § 91.99

§ 91.07 FEEDING REQUIRED.

It shall be unlawful to feed any animal unwholesome or unsuitable food, or unclean water to drink which is likely to cause or produce disease in the animal. ('88 Code, Title IX, Ch. 110, § 9.77) Penalty, see § 91.99

§ 91.08 SANITARY REQUIREMENTS.

Every person lawfully keeping or harboring any animal, shall keep or cause to be kept all manure, or offal therefrom, which shall be deposited or accumulated from such animal, securely and closely confined to or buried upon his premises and in such manner as will prevent it from being scattered from such place of deposit into or upon any street, sidewalk, alley or gutter of the City; and shall so cover and care for it as to prevent any malodorous or offensive condition to exist and to prevent any nuisance to arise therefrom. The owner of every cat and dog shall be responsible for the removal of fecal

matter deposited by their animal(s) on public walks, recreation areas or private property. Any person who fails to remove such waste shall be subject to a municipal civil infraction.

('88 Code, Title IX, Ch. 110, § 9.78) (Am. Ord. 559-11-05, passed 11-7-05) Penalty, see § 91.99

DOGS

§ 91.20 LICENSE REQUIRED.

It shall be unlawful for any person to own, maintain, keep or harbor any dog within the City without first procuring a license therefor as prescribed by state law. Application for a license shall be made to the City Treasurer and shall state the breed, sex, age, color and markings of the dog, and the name and address of the applicant and the last known previous owner. The application shall be accompanied by a certificate of a licensed veterinarian showing that the dog has been vaccinated against rabies.

('88 Code, Title IX, Ch. 110, § 9.91) (Am. Ord. 336-8-93, passed 8-16-93) Penalty, see § 91.99

§ 91.21 IMPOUNDING DOGS; DISPOSITION.

It shall be the duty of the Police Department or Dog Warden to seize and impound any dog found any-where in the City contrary to the provisions of this subchapter. No dog as impounded shall be released to its owner or other authorized person without payment of the sum of \$5 plus \$1 per dog for board to the Police Department or Dog Warden for its care and maintenance and without procuring a license as herein provided. The Police Department or dog warden shall, within 72 hours after impounding any dog, destroy such animal or if it is deemed valuable, sell it to any person the dog warden believes will properly care for such dog.

('88 Code, Title IX, Ch. 110, § 9.92)

§ 91.22 RECORDS REQUIRED.

The Police Department or Dog Warden shall maintain a complete record of all dogs impounded under the provisions of this subchapter and the disposition of same.

('88 Code, Title IX, Ch. 110, § 9.93)

§ 91.23 FEMALE DOGS.

It shall be unlawful for the owner or custodian of any female dog to permit such dog off the premises of the owner or custodian when in heat unless the dog is under control and attached to a leash.

('88 Code, Title IX, Ch. 110, § 9.94) Penalty, see § 10.99

§ 91.24 REPORT TO POLICE.

If any person is bitten by a dog, it shall be the duty of that person, or the owner or custodian of the dog having knowledge of same, to report same to the Police Department or Dog Warden within 12 hours thereafter. If the owner or custodian of any dog has any reason to believe or suspect that such dog has become infected with rabies, it shall be the duty of that person to report the same to the Police Department or Dog Warden within 12 hours thereafter.

('88 Code, Title IX, Ch. 110, § 9.95) Penalty, see § 10.99

§ 91.25 QUARANTINE.

In the event of any report as set forth in § 91.24, the Police Department or dog warden shall seize such dog and deliver it to the Health Officer. The Health Officer shall hold such dog in quarantine until a laboratory analysis by a licensed veterinarian is made to determine whether the dog is infected. The Health Officer shall promulgate and adopt such rules as he deems necessary for the procedure in all such cases and for the disposition of any dog delivered into his custody.

('88 Code, Title IX, Ch. 110, § 9.96)

§ 91.26 LEASH REQUIRED.

It shall be unlawful for the owner, or any other person having the possession, care, custody or control thereof, to permit any dog to run at large upon the public streets, walks, parks, or other public places within the City, unless such dog shall be attached to a leash of sufficient strength to restrain such dog in such manner as to be kept under the control of the person accompanying it.

('88 Code, Title IX, Ch. 110, § 9.97) Penalty, see § 91.99

§ 91.27 BARKING, HOWLING.

It shall be unlawful for any person to own, harbor or keep any dog which shall cause annoyance or disturbance to persons by frequent and habitual barking, howling or yelping.

('88 Code, Title IX, Ch. 110, § 9.98) Penalty, see § 91.99

§ 91.28 VICIOUS DOGS.

It shall be unlawful for any person to suffer or permit a vicious, fierce or dangerous dog to go unconfined and unrestrained on such person's premises, or to run at large.

('88 Code, Title IX, Ch. 110, § 9.99) Penalty, see § 91.99

CATS**§ 91.35 REGULATION OF CATS.**

(A) It shall be unlawful for any person in the City to have possession or custody of any cat without having it under control and/or confined to his premises at all times; provided, that the provisions of this division shall not apply to possession or custody of any cat less than four months of age, when proof of age can be and on request is submitted to a Police Officer.

(B) It shall be unlawful for any person to refuse to show or exhibit, at any reasonable time, any cat in his possession or custody to any Police Officer or Dog Warden of the City.

(C) It shall be unlawful for any person in the City to possess, harbor, shelter or keep more than three adult cats, excepting veterinary hospitals and pet shops. For the purpose of this subchapter, an **ADULT CAT** shall be deemed to be any cat six months old or older. It shall also be unlawful to maintain any cat or cats so as to create a nuisance by way of noise, odor or otherwise,

(D) Any Police Officer or other person, designated by the City, is authorized to impound any cat found running at large within the City. In the event capture cannot be effected, the Police Officer or such other person is authorized to destroy such cat.

(E) Any impounded cat not redeemed within 72 hours shall be disposed of in such a manner as prescribed for impounded dogs in § 91.21. A minimum daily charge of \$1 dollar per day shall be made for feeding and shelter of each cat, so impounded.

('88 Code, Title IX, Ch. 110, § 9.103) Penalty, see § 91.99

§ 91.99 PENALTY.

Any person who violates any animal control ordinance regulation in Title IX, Chapter 91, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97.

(Ord. 427-10-97, passed 10-6-97)

CHAPTER 92: PARKS

Section

- 92.01 Injury to park property
- 92.02 Waste containers
- 92.03 Ball games
- 92.04 Administration and enforcement of rules
- 92.05 Vandalism in parks or recreation areas
- 92.06 Alcoholic beverages prohibited
- 92.07 Smoking prohibited in designated City parks and public grounds
- 92.08 City parks hours of operation; camping in City parks prohibited
- 92.99 Penalty

Cross-reference:

Park and Recreation Board, see Charter, Ch. XVI

§ 92.01 INJURY TO PARK PROPERTY.

No person shall obstruct any walk or drive in a 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 the parks.

('88 Code, Title III, Ch. 31, § 3.1) Penalty, see § 92.99

§ 92.02 WASTE CONTAINERS.

No person shall place or deposit any garbage, glass, tin cans, paper or miscellaneous waste in any park or playground except in containers provided for that purpose.

('88 Code, Title III, Ch. 31, § 3.2) Penalty, see § 92.99

§ 92.03 BALL GAMES.

No baseball, football or softball throwing, or other violent or rough exercises or play shall be engaged in, in any public park or other public place, except in areas designated therefor by the Superintendent of Public Works who is also

authorized to designate hours when City parks and recreation areas shall be closed to public use.

('88 Code, Title III, Ch. 31, § 3.3) Penalty, see § 92.99

§ 92.04 ADMINISTRATION AND ENFORCEMENT OF RULES.

The Superintendent of Public Works shall have general supervision of all City parks, and every matter pertaining thereto. Subject to the approval of the City Commission, the City Manager shall have the power to make, alter, and enforce rules and regulations for the maintenance of order, safety, and sanitation in all City parks, and for the protection of trees and other property and the preservation of the natural beauty thereof. Such rules and regulations shall be posted in conspicuous places in said parks. No person shall fail to comply with such rules and regulations.

('88 Code, Title III, Ch. 31, § 3.4)

§ 92.05 VANDALISM IN PARKS OR RECREATION AREAS.

Pursuant to Section 5 of P.A. 1969, No. 280, State of Michigan, any person convicted of an act of vandalism in a park or recreation area owned and operated by the City shall reimburse the City for up to three times the amount of the damage as determined by the Court. In every case of a conviction for an offence of vandalism, the Court before whom such conviction is obtained, shall enter judgment in favor of the City and against the defendant for liquidated damages in a sum up to three times the amount of the damage as determined by the Court. The City Attorney shall take such steps as shall be necessary to collect the award by execution or otherwise. If two or more defendants are convicted of the vandalism, the judgment for damages shall be entered against them jointly. If the defendant is a minor, the judgment shall be entered against his parents. Upon collection the sums shall be credited to the general fund of the City and shall be used for repairs and improvements to the parks and recreation areas.

('88 Code, Title III, Ch. 31, § 3.5) Penalty, see § 92.99

§ 92.06 ALCOHOLIC BEVERAGES PROHIBITED.

The consumption or possession of alcoholic beverages is prohibited in all City parks, except alcoholic beverages may be possessed and consumed in Hemlock, Vogel and Industrial Parks from 6:00 p.m. to 10:00 p.m. Monday through Friday, and from 1:00 p.m. to 10:00 p.m. Saturday and Sunday. Glass containers of alcoholic beverages are prohibited at all times in City parks. A violation of this section shall be a municipal civil infraction. (Ord. 433-4-98, passed 4-20-98)

§ 92.07 SMOKING PROHIBITED IN DESIGNATED CITY PARKS AND PUBLIC GROUNDS.

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

SMOKING or SMOKE. The act of carrying or holding a lighted cigar, cigarette, pipe, or other lighted smoking device by any person.

(B) *Prohibition.*

(1) A person shall not smoke in designated City park buildings, playgrounds, areas, or public grounds, which are:

- (a) Playscape in Hemlock Park;
- (b) Playground in Linden Street Park;
- (c) Playground in Northend Park;
- (d) Playground on Big Rapids Community Library grounds; and
- (e) Fitness Court facility in Rotary Park.

(2) No person shall smoke within 15 feet of any of the designated City park buildings, playgrounds, areas, or public grounds.

(C) *Posting.* Designated areas in which smoking is prohibited by this section shall be posted with conspicuous signs.

(D) *Violations and penalties.* A person who violates this section shall be subject to:

(1) Being asked to stop smoking in a designated place in which smoking is prohibited; and

(2) Being asked to leave the designated place in which smoking is prohibited; and

(3) Being cited for a municipal civil infraction, and punished according to § 10.97. (Ord. 662-06-13, passed 6-3-13; Am. Ord. 743-07-19, passed 7-1-19)

§ 92.08 CITY PARKS HOURS OF OPERATION; CAMPING IN CITY PARKS PROHIBITED.

(A) City parks shall be open to the general public from 5:00 a.m. to 10:00 p.m., and for extended hours to accommodate special events with extended park hours approved or permitted by the Park and Recreation Board, the Director of Public Works, or the City Commission. City parks shall be closed to the general public between the hours of 10:00 p.m. and 5:00 a.m. except for extended park hours for special events approved and permitted by the Park and Recreation Board, the Director of Public Works, or the City Commission. City parks shall be posted with signs or notices stating the operating hours of City parks.

(B) Camping in City parks is prohibited, and any person camping in a City park shall be responsible for a municipal civil infraction with penalties as provided in § 10.97(E).

(C) Any person who remains in a City park after the hours the City park is open to the general public, and is not participating in a special event with extended park hours, shall be responsible for a municipal civil infraction with penalties as provided in § 10.97(E), except any person who is traveling through a City park or along a City park trail after hours shall not be considered or cited as a person who remains in a City park after hours. (Ord. 725-07-18, passed 7-2-18)

§ 92.99 PENALTY.

Any person who violates any park ordinance regulation in Title IX, Chapter 92, (except § 92.01) shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97. (Ord. 427-10-97, passed 10-6-97)

CHAPTER 93: TREES

Section

- 93.01 Definitions
- 93.02 Public ways; trees; control
- 93.03 Prohibited varieties
- 93.04 Mains; leaks
- 93.05 Injury to trees
- 93.06 Trimming by public utilities; permit required
- 93.07 Application for permit
- 93.08 Obstructions prohibited; trimming
- 93.09 Excavations; guards required
- 93.10 Covering planting strip

- 93.99 Penalty

§ 93.01 DEFINITIONS.

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

GROWTH. Includes any or all thereof unless the context otherwise requires.

SHRUBS. "Shrubs" under fifteen feet in height may include vines and plants.

TREES. Includes shrubs which grow higher than 15 feet.
(‘88 Code, Title III, Ch. 32, § 3.21)

§ 93.02 PUBLIC WAYS; TREES; CONTROL.

The Park Board shall have complete charge and control over the planting, cutting, trimming and removal of trees and other growth upon all public highways and places and the Park Board may promulgate and adopt rules and regulations for the control of same.
(‘88 Code, Title III, Ch. 32, § 3.22)

§ 93.03 PROHIBITED VARIETIES.

No person except the City, shall plant, remove or destroy any ornamental shade tree or shrub in any public way; or plant any poplar, box elder, basswood, cottonwood, willow, soft maple, common catalpa, horse chestnut, or "ailanthus glandulosa" tree anywhere within the City without first procuring a permit from the Park Board or person designated by the Board to issue such permits.
(‘88 Code, Title III, Ch. 32, § 3.23) Penalty, see § 93.99

§ 93.04 MAINS; LEAKS.

Gas pipes or mains within or beneath any public way shall be so maintained as to avoid any leakage therefrom. If any leak exists or occurs, it shall be reported to the owner of such pipe and main, and the leak shall be repaired within 24 hours.
(‘88 Code, Title III, Ch. 32, § 3.24) Penalty, see § 93.99

§ 93.05 INJURY TO TREES.

No person shall cut, mutilate, remove, saw or trim any tree within any public way in the City to make room for any telegraph, telephone or electric lines, moving buildings or machinery or other things or for repairing sidewalks without first procuring a permit from the Park Board. No person shall attach, tack, or in any manner fasten, to any tree in any public way any wire, rope, chain, cable, sign, card, board, poster or other article, nor hitch any animal thereto.
(‘88 Code, Title III, Ch. 32, § 3.25) Penalty, see § 93.99

§ 93.06 TRIMMING BY PUBLIC UTILITIES; PERMIT REQUIRED.

No person owning or operating any bus line or other motor transportation over the City streets, or any public utility lines upon, above, or below the surface, shall trim, cut, or cause it to be trimmed or cut, any tree in any public way or park, without first having submitted to the Park Board a plan of the work to be done and having procured a permit for such work. Nothing in this section shall be construed to apply to the removal, under the direction of the Park Board, of any stump, roots, tree, shrub, vine, plant, or part thereof, wherever such removal shall be found necessary in the construction, or repair of any street, sidewalk, sewer, pavement, or other public improvement.

('88 Code, Title III, Ch. 32, § 3.26) Penalty, see § 93.99

§ 93.07 APPLICATION FOR PERMIT.

Application for any permit required by the provisions of this chapter shall be made in accordance with the terms and provisions of Chapter 94.

('88 Code, Title III, Ch. 32, § 3.27)

§ 93.08 OBSTRUCTIONS PROHIBITED; TRIMMING.

The owner, or person in charge or control of any lot or parcel of land within the City, upon which any tree, shrub, vine or plant may be standing adjacent to any public way, shall trim or cause to be trimmed, either at the property line, or to a clear height of at least eight feet above the surface of such public way, all branches thereof which overhang any portion of such public way, or which obstruct or interfere with the passage of light from any street lighting system, and shall not plant or maintain any thereof so close to any property line as to obstruct thereby the vision of travelers along the streets. The City may enter upon any such private premises to do such trimming as it determines necessary, or to remove such obstructions herein prohibited upon the failure of the owner so to do after notice to him in writing. The owner shall, or the City may, remove from such tree, shrub, plant or vine, all dead, decayed, unsightly, broken or dangerous limbs and branches that overhang, or are close to the public way; and when any such tree, shrub, plant or vine is dead, the owner shall remove the same, or after notice of such intention to the owner, the City

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may do so and charge the cost thereof to such owner. ('88 Code, Title III, Ch. 32, § 3.28) Penalty, see § 93.99

§ 93.09 EXCAVATIONS; GUARDS REQUIRED.

In any excavation, or the erection, alteration, or repair of any building or structure, or other work, the owner thereof, or someone for him, shall place or cause to be placed such guards around all nearby trees, shrubs and plants in the public way as will effectually prevent injury to them.

('88 Code, Title III, Ch. 32, § 3.29) Penalty, see § 93.99

§ 93.10 COVERING PLANTING STRIP.

No person shall place or maintain on any planting strip or lawn extensions in any public way or place of the City, any stone, brick, sand, concrete or other material or article, which may injure or which may in any way impede the full and free passage of water, air or fertilizer to the roots of any tree, shrub, vine, or plant, without leaving an open space of ground not less than four feet in diameter around the same.

('88 Code, Title III, Ch. 32, § 3.30) Penalty, see § 93.99

§ 93.99 PENALTY.

Any person who violates any ordinance within Title IX, Chapter 93, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97.

(Ord. 427-10-97, passed 10-6-97)

CHAPTER 94: STREETS AND SIDEWALKS

Section

- 94.01 Crosswalks, driveway aprons, curb cuts; permit required
- 94.02 Curb cuts; agreement to install driveway apron
- 94.03 Driveway aprons; construction
- 94.04 Unsafe driveways and crosswalks; repair
- 94.05 Plans and specifications
- 94.06 Street cuts and excavations; permit required
- 94.07 Street openings to be guarded
- 94.08 Streets; payment of additional costs
- 94.09 Bond required
- 94.10 Refusal of permit, right of appeal
- 94.11 Permits; revocation, suspension
- 94.12 Additional construction regulations
- 94.13 Removal of construction materials
- 94.14 Utility poles; damage to
- 94.15 Moving buildings; permit required
- 94.16 Snow and ice; removal required
- 94.17 Suspension of objects over street; awnings and marquees
- 94.18 Driving on sidewalks
- 94.19 Signs, barricades; injury to
- 94.20 Obstructions and encumbrances prohibited
- 94.21 Depositing materials on streets
- 94.22 Sidewalk construction permit
- 94.23 Unsafe sidewalks
- 94.24 Sidewalk repair, procedure
- 94.25 Central Business District sidewalk occupancy permits
- 94.26 Facilities installation; permit required
- 94.99 Penalty

Cross-reference:

Vacating, discontinuing and abolishing streets or public grounds, see Chapter 36

§ 94.01 CROSSWALKS, DRIVEWAY APRONS, CURB CUTS; PERMIT REQUIRED.

(A) No person shall construct, alter or change any crosswalk, driveway apron or any opening in or through any curb in any street or public way without

first procuring a permit from the Department of Public Services.

(B) For all purposes within this Code, actions required of the Department of Public Services or the Director of Public Services can be performed by the Director of Public Services or his/her designee. ('88 Code, Title IV, Ch. 41, § 4.1) (Am. Ord. 409-9-96, passed 9-16-96) Penalty, see § 94.99

§ 94.02 CURB CUTS; AGREEMENT TO INSTALL DRIVEWAY APRON.

No permit to cut any curb on a paved street shall be issued by the Department of Public Services unless the applicant shall agree in such application, as a condition of the issuance of the permit, to install a driveway apron of concrete or other material of comparable quality within 90 days after completion of the cut. ('88 Code, Title IV, Ch. 41, § 4.2) (Am. Ord. 409-9-96, passed 9-16-96) Penalty, see § 94.99

§ 94.03 DRIVEWAY APRONS; CONSTRUCTION.

All driveway aprons located on paved streets shall be paved. The Director of Public Services shall give the owner or occupant 30 days notice to pave any such unpaved apron and if such person shall neglect or refuse to do so then the Director shall cause the driveway apron to be paved, and the Director shall make a detailed report to the City Commission of the cost and expense of performing this work, which cost and expense shall be charged to such owner or occupant in the manner provided by the Charter and this code for special assessments. ('88 Code, Title IV, Ch. 41, § 4.3) (Am. Ord. 409-9-96, passed 9-16-96)

§ 94.04 UNSAFE DRIVEWAYS AND CROSSWALKS; REPAIR.

Whenever any driveway, crosswalk, or other paved area between the sidewalk and the curb is or

becomes so defective that it is not reasonably safe or fit for travel, and in the opinion of the Director of Public Services the same should be immediately repaired, the Director shall give the owner or occupant of the premises adjacent to such driveway, crosswalk, or other paved area, notice to repair the same within 30 days, and in default thereof the Director shall have the power to cause the same to be repaired, and the Director shall make a detailed report to the City Commission of the cost and expense of performing this work, which cost and expense shall be charged to such owner or occupant in the manner provided by the Charter and this code for special assessments.

('88 Code, Title IV, Ch. 41, § 4.4) (Am. Ord. 409-9-96, passed 9-16-96)

§ 94.05 PLANS AND SPECIFICATIONS.

No work for which a permit is required under this chapter shall be done by any person except in accordance with plans and specifications approved by the Director of Public Services, and all work shall be done under the Director's supervision.

('88 Code, Title IV, Ch. 41, § 4.5) (Am. Ord. 409-9-96, passed 9-16-96) Penalty, see § 94.99

§ 94.06 STREET CUTS AND EXCAVATIONS; PERMIT REQUIRED.

No person shall make any excavation or opening in or under any street or public place without first procuring a permit from the Director of Public Services.

('88 Code, Title IV, Ch. 41, § 4.6) (Am. Ord. 409-9-96, passed 9-16-96) Penalty, see § 94.99

§ 94.07 STREET OPENINGS TO BE GUARDED.

No person making an opening in a street, alley, or public place shall fail to guard the same fully during the period of construction, and no person causing any such opening to be used, nor the user thereof, shall fail to guard or barricade the same while in use so as to protect the safety of the public. No person using any street opening, or causing the same to be used, shall fail to close the opening in accordance with the directions of the Director of Public Services immediately after use.

('88 Code, Title IV, Ch. 41, § 4.7) (Am. Ord. 409-9-96, passed 9-16-96) Penalty, see § 94.99

§ 94.08 STREETS; PAYMENT OF ADDITIONAL COSTS.

Each applicant for a permit to open a street shall pay in addition to the permit fee herein required the estimated cost of restoring the surface of the street to its proper condition, which cost shall be determined by the City Commission.

('88 Code, Title IV, Ch. 41, § 4.8)

§ 94.09 BOND REQUIRED.

No permit shall be granted for the doing of any work under this chapter until a bond or policy of insurance has been filed with the Department of Public Services in the sum of \$1,000, unless a larger bond shall be required by the City Commission at the time any permit is granted by it upon appeal. All bonds or policies of insurance shall provide for the payment of all costs incurred by the City, or to hold the City harmless from every other damage of every other nature, whether to persons or property for which the City may be held liable by reason of, or which is occasioned by, the doing of a thing or the exercise of the privilege for which the permit upon which the bond or policy of insurance was based, was granted.

('88 Code, Title IV, Ch. 41, § 4.9) (Am. Ord. 409-9-96, passed 9-16-96)

§ 94.10 REFUSAL OF PERMIT, RIGHT OF APPEAL.

If the Department of Public Services shall refuse to issue any permit, the applicant may appeal to the City Commission, which shall grant a hearing thereon, and the decision of the City Commission shall be final.

('88 Code, Title IV, Ch. 41, § 4.10) (Am. Ord. 409-9-96, passed 9-16-96)

§ 94.11 PERMITS; REVOCATION, SUSPENSION.

All work done pursuant to any permit shall be inspected by the Director of Public Services, and the Director may suspend or revoke any permit so granted where either the workmanship or materials used does not conform to the plans and specifications approved or required upon issuance of the permit, or when the terms of any permit or of this chapter are violated. No person shall perform any work authorized by any

permit or cause any such work to be performed while that permit is suspended or revoked.
(‘88 Code, Title IV, Ch. 41, § 4.11) (Am. Ord. 409-9-96, passed 9-16-96)

§ 94.12 ADDITIONAL CONSTRUCTION REGULATIONS.

The Department of Public Services may make such additional rules and regulations subject to the approval of the City Commission, pertaining to the making of openings or excavations in streets, in the building of any vault, stair, or area-way in or under the streets, as are necessary to secure the health and safety of the public and for the protection of property, and such rules and regulations shall constitute the standards upon which the permits required above shall be issued.
(‘88 Code, Title IV, Ch. 41, § 4.12) (Am. Ord. 409-9-96, passed 9-16-96)

§ 94.13 REMOVAL OF CONSTRUCTION MATERIALS.

No person owning, building or repairing any house or other building shall permit any lumber, brick, plaster, mortar, earth, clay, sand, stone, or other material to remain on the sidewalk after sunset of the day upon which it was placed there, without permission, in writing, from the Chief of Police, subject to any safeguards he may prescribe.
(‘88 Code, Title IV, Ch. 41, § 4.13) Penalty, see § 94.99

§ 94.14 UTILITY POLES; DAMAGE TO.

No person shall hack, cut, mutilate, disfigure or in any manner injure any telegraph, telephone, electric light, railway or fire alarm pole in any street, alley, park, lane or public place in the City.
(‘88 Code, Title IV, Ch. 41, § 4.14) Penalty, see § 94.99

§ 94.15 MOVING BUILDINGS; PERMIT REQUIRED.

(A) No person shall remove, or cause to be removed, or aid or assist in removing any building, into, along, or across any street, alley or any public place, without first procuring a permit as required by the Building Code in Chapter 150.
(‘88 Code, Title IV, Ch. 41, § 4.21)
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(B) In granting a permit after a hearing appealing the refusal of a permit, the City Commission may impose such conditions therefor as it may deem desirable to protect the safety of persons and property during the moving of any building and the replacement of any utility wires, poles, and other street appurtenances as may be moved or taken down therefor.
(‘88 Code, Title IV, Ch. 41, § 4.10)

§ 94.16 SNOW AND ICE; REMOVAL REQUIRED.

The occupant of any premises, or the owner of any unoccupied premises, is required to keep the sidewalks in front of, or adjacent to such premises cleared, so far as is practicable and reasonable, from snow and ice to facilitate pedestrian use. Whenever any snow or ice has fallen or accumulated it shall be cleared within 12 hours after it has fallen or accumulated.
(‘88 Code, Title IV, Ch. 41, § 4.16) Penalty, see § 94.99

§ 94.17 SUSPENSION OF OBJECTS OVER STREET; AWNINGS AND MARQUEES.

No person shall suspend anything above any sidewalk or within any street area unless expressly authorized by this code, except an awning or marquee no part of which is less than seven feet above the sidewalk grade.
(‘88 Code, Title IV, Ch. 41, § 4.17) Penalty, see § 94.99

§ 94.18 DRIVING ON SIDEWALKS.

No person shall go upon or drive, or cause to be driven, any vehicle or animal on any sidewalk, curbing, gutter, except at a driveway constructed for such purpose.
(‘88 Code, Title IV, Ch. 41, § 4.18) Penalty, see § 94.99

§ 94.19 SIGNS, BARRICADES; INJURY TO.

No unauthorized person shall move, alter, deface, injure, or destroy any part or accessory of any street or alley or any sign or barricade erected or placed to protect, warn, or guide the public.
(‘88 Code, Title IV, Ch. 41, § 4.19) Penalty, see § 94.99

§ 94.20 OBSTRUCTIONS AND ENCUMBRANCES PROHIBITED.

No person shall obstruct or encumber any public street, alley, or any public place by placing thereon any article or thing whatsoever.
(‘88 Code, Title IV, Ch. 41, § 4.22) Penalty, see § 94.99

§ 94.21 DEPOSITING MATERIALS ON STREETS.

No person shall drop, throw, deposit, or scatter any earth, ashes, shavings, sawdust, hay, dirt, manure, rubbish, garbage, filth or any other loose material or articles in any street, alley, or public place, nor shall any person permit such substances, things and articles to spill, drop or be blown about from any vehicle while hauling same in any street, alley or public place.
(‘88 Code, Title IV, Ch. 41, § 4.23) Penalty, see § 94.99

§ 94.22 SIDEWALK CONSTRUCTION PERMIT.

No person shall construct or repair any sidewalk except in accordance with the lines, grade, slope, and specifications established by the Director of Public Services and without first procuring a permit from the Department of Public Services upon the payment of such fees as are adopted by resolution of the City Commission, a schedule of which shall be kept on file in the office of the City Clerk.
(‘88 Code, Title IV, Ch. 42, § 4.41) (Am. Ord. 409-9-96, passed 9-16-96) Penalty, see § 94.99

§ 94.23 UNSAFE SIDEWALKS.

No person shall permit any sidewalk which adjoins property owned by him to fall into a state of disrepair or be unsafe.
(‘88 Code, Title IV, Ch. 42, § 4.42) Penalty, see § 94.99

§ 94.24 SIDEWALK REPAIR, PROCEDURE.

(A) Whenever the Director of Public Services shall determine that a sidewalk is unsafe for use, or required to be constructed for the public safety, the Director shall give written notice thereof to the owner of the abutting premises by mail, addressed to the last known address of said owner, or if the owner or his or her address be unknown, by delivering the 2009 S-9

notice and leaving same with a person of suitable age and discretion at the premises, or if such person be not found, by posting the notice in some conspicuous place on the premises.

(B) The notice shall specify the construction of the sidewalk required and specifications therefor, or the condition to be repaired and the nature of the repairs to be made.

(C) In the event such owner fails to repair or construct the sidewalk within 30 days, the Director of Public Services shall report same to the City Commission with the request for authorization to repair or construct the same. The Director of Public Services may dispense with said notice and report, and request the City Commission for authority to repair or construct the sidewalk if, in the Director's opinion, the sidewalk condition is unsafe and dangerous and requires immediate repair to assure public safety and to prevent the possibility of City liability for personal injury or property damage. Upon receipt of any such report of the failure of such owner to repair the sidewalk within the time specified in such notice, or such request for authority for immediate construction or repair, the City Commission may determine to construct or repair by resolution and order the Director of Public Services to proceed with the required work.

(D) The cost of repairs or construction hereunder if made by the City shall be charged against the premises abutting the sidewalk and the owner thereof in accordance with the provisions of the Charter and this code relative to special assessments.
(‘88 Code, Title IV, Ch. 42, § 4.43) (Am. Ord. 409-9-96, passed 9-16-96)

§ 94.25 CENTRAL BUSINESS DISTRICT SIDEWALK OCCUPANCY PERMITS.

(A) *Permits authorized.* In the interest of promoting business by increasing activity and improving the general business climate in the Central Business District, that being the area generally bounded by State Street, Hemlock Street, Warren Avenue, and Linden Street, the City Manager may issue revocable permits to businesses within the district who apply for a permit to operate an outside establishment as an extension of, or compatible with, the existing business on a portion of a City sidewalk. This language shall not be construed as to require sidewalk occupancy permits for entities participating in periodic, district-wide events, such as those

sponsored by the Downtown Business Association. The outside activities are limited to activities carried on by the existing business. The permit may be issued under the following terms and conditions as set forth in this section.

(B) *Conditions.* Such permits shall be issued when the City Manager, or his or her designee, is able to determine that the requested occupancy permit will not:

(1) Unreasonably interfere with the use of the street for pedestrian or vehicular travel.

(2) Unreasonably interfere with the view of, access to, or use of property adjacent to the street.

(3) Unreasonably interfere with street cleaning or snow removal activities.

(4) Cause damage to the street, trees, benches, landscaping, or other objects lawfully located within the street right-of-way.

(5) Cause a violation of any state or local laws.

(6) Be principally used for off-premises advertising.

(7) Be attached to or reduce the effectiveness of or access to any utility pole, sign, or other traffic control device.

(8) Reduce pedestrian travel area of any sidewalk to less than six feet in width.

(9) Hinder safe pedestrian use of sidewalks or safe ingress or egress to any building.

(C) *Sale of food and beverages.* To secure a sidewalk occupancy permit for the sale of food and/or beverages in an area located on a public sidewalk, the following conditions must be met:

(1) Areas of the sidewalk used for the consumption of food and/or beverages may be enclosed by a structure approved by the City Manager or his or her designee. The purpose of this structure shall be to delineate the private use area from the public access area of the sidewalk.

(a) Such structures shall be required if the City Manager or his or her designee determines that private street furniture (tables, chairs, and other similar fixtures) associated with an eating establishment is frequently moved into the travel lane of the sidewalk or obstructs the sidewalk in any manner.

(b) Such structures may be required at any point after a sidewalk use permit is issued to an eating establishment.

(2) Sidewalk areas used for the sale and/or consumption of food and/or beverages shall be kept in a clean and orderly manner and shall at a minimum:

(a) Be provided with adequate solid waste receptacles so as to allow for the convenient disposal of waste materials associated with the private use of the sidewalk space.

(b) Tables, chairs, and other appurtenances of the food and/or beverage consumption area shall be placed in such a manner so as not to hinder safe pedestrian use of the sidewalk and shall not block the ingress or egress to any building.

(3) The sale, possession and consumption of alcohol and alcoholic beverages on the sidewalk is allowed only in those areas for which a permit under this section has been granted.

(D) *Public notice required.* Prior to considering granting a requested sidewalk occupancy permit, notice of the request shall be given to property owners and occupants adjacent to the business or entity seeking the permit a minimum of seven days prior to the permit being granted.

(E) *Insurance requirements.* Prior to the issuance of a sidewalk occupancy permit, the applicant must supply the City with a certificate of liability insurance in an amount to be determined by the City. The certificate of insurance must be in effect for at least the period that the permit will be issued. In addition, the applicant shall indemnify and hold harmless the City from all claims or damages incident to the creation and operation of an outside establishment.

(F) *Effective dates and hours of operation.*

(1) All permits shall specify the dates and duration of the permitted sidewalk occupancy, and the permits shall be valid for only the specified period. Permits may not be granted for a period in excess of 12 months. Sidewalk occupancy permits terminate on March 31 of each year.

(2) All permits shall specify the hours during which the permitted sidewalk occupancy may occur during any given day of the valid permit period.

(G) *Display.* Permits shall only be valid if displayed in a manner visible to the public.

(H) *Fees.* Prior to considering a request for a sidewalk occupancy permit, an application fee in an amount to be established by resolution of the City Commission shall be paid by the applicant.

(I) *Revocation.* All permits issued under this section are subject to immediate revocation by the City Manager or his or her designee for failure to comply with any or all provisions of this section. (Ord. 362-7-94, passed 7-5-94; Am. Ord. 382-3-95, passed 4-17-95; Am. Ord. 418-3-97, passed 3-17-97; Am. Ord. 594-04-08, passed 4-21-08; Am. Ord. 716-02-18, passed 2-19-18) Penalty, see § 94.99

§ 94.26 FACILITIES INSTALLATION; PERMIT REQUIRED.

(A) No person, public utility, business, or association, public or private, shall have the right to use the City streets, alleys, highways, public places, or rights-of-way for wires, poles, pipes, tracks, conduits, antennae or other utility facilities without the consent of the City, or to transact business therein without first obtaining a franchise from the City.

(B) Every public utility franchise shall be subject to the right of the City to use, control, and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improving or maintaining streets, alleys, bridges and public places as shall arise from its use thereof, and shall protect and hold the City harmless from all damages arising from said use. The City may require every franchise to permit joint use of its property and appurtenances located in the streets, alleys and public places by the City and by other utilities insofar as such joint use may be reasonably practicable. The City Commission shall arbitrate the terms and conditions of joint use and the compensation to be paid. The City Commission's decision shall be final.

(C) No person, public utility, business or association, public or private, shall use, install or construct any wire, pole, pipe, track, conduit, antenna, or other utility facility in the City streets, alleys, highways, public places or rights-of-way without first obtaining a permit from the City that describes the use, work, and facility and requires an "as built" blueprint or diagram to be filed with the City.

(D) No easement shall be granted by the City for the placement or installation of any wire, pole, pipe, track, conduit, antenna or other facility in the City streets, alleys, highways, public places or rights-of-way, but the City may grant a revocable license or permit for such purposes. (Ord. 709-07-17, passed 7-17-17)

§ 94.99 PENALTY.

Any person who violates any ordinance within Title IX, Chapter 94, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97. (Ord. 427-10-97, passed 10-6-97)

CHAPTER 95: ADVERTISEMENTS

Section

- 95.01 Handbills and posters; distributing
- 95.02 Posting prohibited
- 95.99 Penalty

§ 95.99 PENALTY.

Any person who violates any ordinance within Title IX, Chapter 95, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97.

(Ord. 427-10-97, passed 10-6-97)

§ 95.01 HANDBILLS AND POSTERS; DISTRIBUTING.

(A) It is unlawful for any person to scatter or distribute on or along any public street or place or cause to be placed on or in any motor vehicle on any public street or public parking lot in the City any commercial literature, advertising material, commercial handbill, card, sample or other matter for the purpose of advertising.

(B) Any person who advertises his goods, wares or merchandise by causing any advertising material to be scattered or distributed in any manner contrary to the provisions of this section shall be subject to the penalties provided in this code in the same manner as the person who actually distributes any advertising material.

('88 Code, Title IV, Ch. 41, § 4.20) Penalty, see § 95.99

§ 95.02 POSTING PROHIBITED.

No person shall tack, nail, paste or in any manner attach or affix to any telegraph, telephone, electric light, power or fire alarm pole any advertisement or any advertising matter, sign, notice or placard, in any street, alley, park, lane or public place in the City.

('88 Code, Title IV, Ch. 41, § 4.15) Penalty, see § 95.99

CHAPTER 96: FIRE PREVENTION REGULATIONS

Section

- 96.01 Definitions
- 96.02 Inspection of premises
- 96.03 Service of orders
- 96.04 Buildings; razing, repairing
- 96.05 Compliance with orders; time
- 96.06 Inspection; access to premises
- 96.07 Flammable liquids
- 96.08 Flammable decorations
- 96.09 Welding
- 96.10 Smoldering ashes
- 96.11 Undue hardship; modification of provisions
- 96.12 Fire escapes; aisles and exits
- 96.13 Open fires
- 96.14 Christmas tree sales lots
- 96.15 Fire drills
- 96.16 False alarms
- 96.17 Fire alarm system
- 96.18 Keys of signal boxes
- 96.19 Opening fire hydrants
- 96.20 Hydrants; obstruction prohibited
- 96.21 Smoking in bed
- 96.22 Throwing hot or burning substances
- 96.23 Smoking on public conveyances
- 96.24 Smoking in theaters
- 96.25 Adoption of the International Fire Code by reference
- 96.26 Amendments to Fire Code
- 96.27 Geographic limits of Fire Code
- 96.99 Penalty

Cross-reference:

Smoke detectors required in rental units, see §§ 151.35 et seq.

§ 96.01 DEFINITIONS.

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

BUILDING. Includes tanks, reservoirs or other receptacles for storage.

FIRE HAZARD. Any building, or parts and accessories thereof, premises, place or material of any kind which, by reason of its nature, location, occupancy, condition or use may cause loss, damage, or injury to persons or property by reason of fire, explosion, or action of the elements.

INSPECTOR. The Chief of the Fire Department or any member of the Fire Department designated by the Chief to make inspections under this chapter.

OWNER. Includes the executor, administrator, trustee or board of trustees.
(’88 Code, Title IX, Ch. 113, § 9.171)

§ 96.02 INSPECTION OF PREMISES.

(A) The Inspector shall inspect or cause to be inspected as often as may be deemed necessary, but in no event less than twice a year, all buildings and premises except the interiors of private dwellings for the purposes of ascertaining and causing to be corrected any condition likely to cause fire, or any violations of the provisions or intent of any provision of this code.

(B) Whenever any Inspector shall find in any building or upon any premises combustible or explosive matter or dangerous accumulations of rubbish or any inflammable materials, and which is so situated as to endanger life or property; or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows, likely to interfere with the operation of the Fire Department or egress of occupants in case of fire, he shall order the same to be removed or remedied.

(C) Whenever any Inspector shall find any building or other structure which, for want of repairs, lack of sufficient fire escapes, automatic or other fire alarm apparatus, or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any cause, is likely to fire and which is so situated as to endanger other property or buildings or the occupants thereof and whenever such Inspector shall

find in any building combustible or explosive matter or inflammable conditions dangerous to the safety of such buildings or the occupants thereof, he shall order such dangerous conditions or materials to be removed or remedied.

('88 Code, Title IX, Ch. 113, § 9.172)

§ 96.03 SERVICE OF ORDERS.

The service of such order to remove or remedy dangerous conditions may be made upon the owner or occupant of the premises to whom it is directed, either by delivering such order to the owner or occupant personally or by delivering such order and leaving it with any person of suitable age and discretion in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance to such premises.

('88 Code, Title IX, Ch. 113, § 9.173)

§ 96.04 BUILDINGS; RAZING, REPAIRING.

Whenever any Inspector shall find a building or structure or any part of such building or structure which, by reason of age or dilapidated condition, or from any cause is likely to catch fire or which by reason of any structural defects is dangerous to persons or property, the Chief of the Fire Department shall order such buildings or structures destroyed or repaired in accordance with the building regulations in Chapter 150.

('88 Code, Title IX, Ch. 113, § 9.174)

§ 96.05 COMPLIANCE WITH ORDERS; TIME.

Any Inspector upon giving an order for the removal or abatement of any hazardous conditions shall order the same to be removed or remedied in a stated time, not less than 24 hours nor longer than ten days unless an extension of time is granted by the Chief of the Fire Department. Whenever any orders are issued for the destruction or repair of any building or structure or any part thereof, the Chief of the Fire Department shall, in such order, specify the number of days in which compliance shall be made, except that the Chief of the Fire Department may, at his discretion, grant further time for compliance with such order if due to unusual circumstances, he deems

such extension of time necessary and not a violation of the spirit of this chapter.

('88 Code, Title IX, Ch. 113, § 9.175)

§ 96.06 INSPECTION; ACCESS TO PREMISES.

The Inspector may, at all reasonable hours, enter any building or premises within his jurisdiction for the purpose of making any inspection or investigation which, under the provisions of this chapter, he may deem necessary. It shall be the duty of each owner and occupant to give free access to the Inspector of buildings and premises for the purpose of inspection. ('88 Code, Title IX, Ch. 113, § 9.176) Penalty, see § 96.99

§ 96.07 FLAMMABLE LIQUIDS.

(A) The storage or handling of flammable liquids above or below ground shall be in accord with rules and regulations as prescribed and authorized in §§ 3 and 5 of Act 207, 1941, State of Michigan, as amended.

(B) The use of any facilities for the handling of gasoline or flammable liquids or the filling of any containers with such flammable liquids in any basement or sub-basement is prohibited.

(C) No person shall place or cause to be placed any gasoline or any flammable liquids in any sewer or drain leading to sewers, nor shall any person permit such liquids to flow or drain into such sewers.

(D) The use or storage of flammable liquids in any hotel, rooming house, lodging house, multiple dwelling, or place of assembly is prohibited except as is otherwise authorized by law.

('88 Code, Title IX, Ch. 113, § 9.177) Penalty, see § 96.99

§ 96.08 FLAMMABLE DECORATIONS.

The use of crepe paper or other combustible or flammable decorations in any tavern, auditorium, church, dance hall or place of public assembly, unless such decorations are of a standard flame-proof variety, is prohibited, provided, however, that the Chief of the Fire Department may, at his discretion, permit such decorations which are so arranged or placed, or are

made of such material as to eliminate the usual hazards from fire. The use of any flammable decorative materials in contact with electric light bulbs is prohibited.

('88 Code, Title IX, Ch. 113, § 9.178) Penalty, see § 96.99

§ 96.09 WELDING.

No person shall engage in welding or cutting within 25 feet of any combustible materials, and where fire hazards exist, fire extinguisher shall be provided and maintained in an accessible location.

('88 Code, Title IX, Ch. 113, § 9.179) Penalty, see § 96.99

§ 96.10 SMOLDERING ASHES.

No person shall place or cause to be placed any ashes, clinkers, smoldering coal or embers or similar residue from any heating appliance in any other than metal or nonflammable containers, nor shall such ashes be piled against any combustible wall or partition or on any combustible floor, provided, however, that dead ashes may be placed in paper cartons or boxes when placed out of doors at the rear of the premises to await the pickup of such ashes and other debris. When such ashes are placed out of doors in containers as herein specified, such containers must be placed at least three feet away from any wooden wall, fence, building or combustible material.

('88 Code, Title IX, Ch. 113, § 9.180) Penalty, see § 96.99

§ 96.11 UNDUE HARDSHIP; MODIFICATION OF PROVISIONS.

(A) The Chief of the Fire Department shall have power to modify temporarily any of the provisions of this chapter upon the request of the owner or the occupant or the duly authorized agent of any premises when there are practical difficulties in the way of carrying out the strict letter of this chapter, provided, that the spirit of this chapter shall be observed, public safety secured and substantial justice done.

(B) The particulars of such modification when granted or allowed and the decision of the Fire Chief

shall be entered upon the inspection records of the Department.

('88 Code, Title IX, Ch. 113, § 9.181)

§ 96.12 FIRE ESCAPES; AISLES AND EXITS.

All regulations governing fire escapes, exits, lights and aisles in all places of public assembly shall be the regulations established by this code of ordinances and the Commissioner of the State Police and such other regulations as may be established by the said Commissioner as provided by Act 207 of the Michigan Public Laws of 1941, as amended.

('88 Code, Title IX, Ch. 113, § 9.182) Penalty, see § 96.99

§ 96.13 OPEN FIRES.

(A) *Scope.* The provisions set forth in this section are general regulations for the prevention of fire. The regulations are to be applied to all properties in the City.

(B) *Permits required.* A person shall not kindle or maintain any open fire or authorize any such fire to be kindled or maintained on any premises without having obtained a permit or other authorization from the Department of Public Safety. All permits shall be requested by and issued to the owner of the land upon which the fire is to be kindled. No person shall burn leaves, weeds, grass, rubbish, brush, or debris in any place or in any quantity or in any manner so as to endanger surrounding property. No person shall kindle any fire in or upon any paved street or paved public way.

(C) *Location restricted.*

(1) A person shall not kindle or maintain any fire or authorize any fire to be kindled or maintained unless:

(a) The location is at least 25 feet away from any structure, and adequate precautions are taken to prevent the fire from spreading to any structure; and

(b) The fire is contained in a secure burner with a screen of no larger than 1/4" mesh located at least 25 feet from any structure.

(2) The Department of Public Safety may inspect and disapprove any proposed location or container as unsafe.

(D) *Bonfire material.* Bonfires shall be limited to ceremonial occasions of recognized community organizations. Fuel for open bonfires shall consist of seasoned dry wood and a small quantity of paper to ignite the fire. Bonfires shall not contain rubbish, garbage, trash, rubber, plastic, leather, petroleum based materials, flammable liquids, combustible liquids, or any other materials that produce noxious fumes or odors when burned. The quantity of wood to be burned may be limited or restricted by the Department of Public Safety based upon the fire safety requirements of the situation, including the size and duration of the fire. No bonfire shall be kindled, maintained or allowed to burn between the hours of 11:00 p.m. local time and 7:00 a.m. local time. It will be the responsibility of the person obtaining the permit to comply with this division.

(E) *Attending fires.* All open fires shall be attended constantly by a competent person until such fire is extinguished. Fire extinguishing equipment shall be readily available.

(F) *Prohibited burning.* The Department of Public Safety may prohibit all burning in the City which is deemed offensive, hazardous, or objectionable due to smoke, ash, or odor emissions. The Department of Public Safety may ban all burning in the City due to atmospheric conditions or local circumstances tending to increase the hazards associated with fires.

(G) *No burn area.* There shall be no burning of any type in the area one-half block west of State Street to one-half block east of Warren Avenue from Linden Street, north to the river, as depicted on the map attached to Ord. 341-9-93, passed 10-4-93.

(H) *Burning of brush and leaves.* The burning of leaves is prohibited. Brush, trees, and logs may be burned only with a permit and in a location as specified in division (C) of this section.

(I) *Barbecues permitted.* This section does not prohibit the use of open fires in stationary or portable enclosures designed and used for the purpose of food preparation nor does it require the obtaining of a permit for such fires.

(J) *Penalty.* Any person convicted under the provisions of this section shall be subject to a maximum penalty of 90 days in jail or an equal amount of time of community service, or any combination thereof not exceeding 90, plus \$100 fine, 2006 S-7

plus costs of prosecution, plus mandatory restitution to victims.

('88 Code, Title IX, Ch. 113, § 9.183) (Am. Ord. 341-9-93, passed 10-4-93; Am. Ord. 360-6-94, passed 6-20-94; Am. Ord. 562-01-06, passed 1-3-06)

§ 96.14 CHRISTMAS TREE SALES LOTS.

No person shall engage in the selling of Christmas trees within the City without first obtaining a permit therefor. No such permit shall be issued except with the approval of the Fire Chief. All persons operating such sales lots shall conform to the orders of the Fire Chief with respect to storage of trees for sale, disposal of unsold trees, branches and other debris incidental to such sales. No tree or other article of a similarly inflammable nature shall be stored on any such sales lot within 15 feet of any structure having less than a one-hour fire resistance rating.

('88 Code, Title IX, Ch. 113, § 9.184) Penalty, see § 96.99

§ 96.15 FIRE DRILLS.

It shall be the duty of the Chief of the Fire Department to require teachers of public, private, and parochial schools and educational institutions to have one fire drill each month and to keep all doors and exits unlocked during school hours.

('88 Code, Title IX, Ch. 113, § 9.185) Penalty, see § 96.99

§ 96.16 FALSE ALARMS.

It shall be unlawful for any person wilfully or designedly to give, assist in giving, countenance or request or cause to be given any false alarm of fire in any manner, provided, however, that this section shall not apply to members of the Fire Department or any person in making tests or repairs under the direction of the Fire Chief.

('88 Code, Title IX, Ch. 113, § 9.186) Penalty, see § 96.99

§ 96.17 FIRE ALARM SYSTEM.

It shall be unlawful for any person to tamper, meddle or in any way interfere with any station or signal box or anything pertaining, to the fire alarm

system or any auxiliary appliance or wilfully to break, injure, deface or remove, or to make any connection or communication with the poles, wires, boxes or other parts or fixtures of the fire alarm system so as to interrupt or to interfere with the proper working of the same or to mutilate or destroy any notices that may be legally posted relating to the same. It shall be unlawful for any person to damage, injure, molest, remove or otherwise interfere with any fire fighting apparatus, or equipment of the City. ('88 Code, Title IX, Ch. 113, § 9.187) Penalty, see § 96.99

§ 96.18 KEYS OF SIGNAL BOXES.

It shall be unlawful for any person to make or cause to be made, or to use or have in his possession any key, impression or duplicate of any [such key to any] signal box of the fire alarm telegraph system without the written permission of the Fire Chief. ('88 Code, Title IX, Ch. 113, § 9.188) Penalty, see § 96.99

§ 96.19 OPENING FIRE HYDRANTS.

No person shall:

(A) Open or cause to be opened any hydrant without first procuring a permit therefor from the City Manager or the person designated by him for the issuing of the permit.

(B) Use any wrench or tool in opening any hydrant other than a regulation Fire Department wrench. ('88 Code, Title IX, Ch. 113, § 9.190) Penalty, see § 96.99

§ 96.20 HYDRANTS; OBSTRUCTION PROHIBITED.

No person shall place any thing or any object within 15 feet of any fire hydrant nor otherwise obstruct the same. ('88 Code, Title IX, Ch. 113, § 9.191) Penalty, see § 96.99

§ 96.21 SMOKING IN BED.

(A) *Prohibition.* It shall be unlawful for any person to smoke in bed in the following places:

- (1) Hospitals;
- (2) Nursing homes;
- (3) Hotels;
- (4) Rooming houses and lodging houses;
- (5) Dormitories;
- (6) Other places of danger or designated by the Chief of the Fire Department. ('88 Code, Title IX, Ch. 113, § 9.192)

(B) *Notice.* In each sleeping room of all hotels, rooming and lodging houses and other places of public abode, a plainly written notice shall be posted in a conspicuous place as notice of the foregoing section. ('88 Code, Title IX, Ch. 113, § 9.193) Penalty, see § 96.99

§ 96.22 THROWING HOT OR BURNING SUBSTANCES.

It shall be unlawful for any person to throw hot or burning substances, or objects such as cigars, cigarettes, papers, matches, and ashes, from any window or door of any building, or from any moving vehicle. ('88 Code, Title IX, Ch. 113, § 9.194) Penalty, see § 96.99

§ 96.23 SMOKING ON PUBLIC CONVEYANCES.

It shall be unlawful for any person to smoke in any bus or public conveyance, except taxicabs or motor vehicles for hire. ('88 Code, Title IX, Ch. 113, § 9.195) (Am. Ord. 337-8-93, passed 8-16-93) Penalty, see § 96.99

§ 96.24 SMOKING IN THEATERS.

It shall be unlawful for any person to smoke or light a match while attending any performance in any theater, or motion picture house, or in any other auditorium used therefor in the City, or for any person maintaining or operating any theater or motion picture show to permit any person to smoke while attending a performance. ('88 Code, Title IX, Ch. 113, § 9.196) Penalty, see § 96.99

§ 96.25 ADOPTION OF THE INTERNATIONAL FIRE CODE BY REFERENCE.

That a certain document, three copies of which are on file in the office of the Big Rapids City Clerk, being marked and designated as the International Fire Code, 2018 edition, including Appendix Chapter A, as published by the International Code Council, is hereby adopted as the Fire Code of the City of Big Rapids in the State of Michigan, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises; providing for the issuance of permits and collection of fees therefor; and all of the provisions of the International Fire Code, 2018 edition, on file in the office of the Big Rapids City Clerk are hereby adopted by reference, with the additions, insertions, deletions and changes described in § 96.26. Printed copies of the law, code, or rule shall be kept in the office of the City Clerk, available for inspection by, and distribution to, the public at all times.
(Ord. 721-05-18, passed 5-7-18)

§ 96.99 PENALTY.

Any person who violates any fire prevention regulation in Title IX, Chapter 96, for which no other penalty is set forth, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97. (See § 96.27(G)).
(Ord. 341-9-93, passed 10-4-93; Am. Ord. 427-10-97, passed 10-6-97)

[Text continues on page 33]

§ 96.26 AMENDMENTS TO FIRE CODE.

The following sections are hereby revised:

Section 101.1 Insert: The City of Big Rapids

Section 110.4 Insert: OFFENSE, Municipal Civil Infraction, DOLLAR AMOUNT \$500, NUMBER OF DAYS 0.

Section 112.4 Insert: \$25 \$500
(Ord. 721-05-18, passed 5-7-18)

§ 96.27 GEOGRAPHIC LIMITS OF FIRE CODE.

That the geographic limits referred to in certain sections of the 2018 International Fire Code are hereby established as follows:

Section 5704.2.9.6.1 Insert: The City of Big Rapids

Section 5706.2.4.4 Insert: The City of Big Rapids

Section 5806.2 Insert: The City of Big Rapids

Section 6104.2 Insert: The City of Big Rapids
(Ord. 721-05-18, passed 5-7-18)

CHAPTER 97: FAIR HOUSING

Section

- 97.01 Discrimination in sale, lease or rental prohibited
- 97.02 Discrimination in lending prohibited
- 97.03 Discrimination by real estate broker or salesperson prohibited
- 97.04 Discrimination in terms and privileges
- 97.05 Publication indicating certain preferences prohibited
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- 97.07 Threats, intimidation and the like prohibited
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§ 97.01 DISCRIMINATION IN SALE, LEASE OR RENTAL PROHIBITED.

It shall be unlawful for an owner, lessee or sublessee of real property, or any agent or representative thereof, to refuse to sell, exchange, rent or lease any housing accommodation or living quarters of any sort within the City because of race, color, religion, national origin or ancestry. ('88 Code, Title IX, Ch. 114, § 9.221)

§ 97.02 DISCRIMINATION IN LENDING PROHIBITED.

It shall be unlawful for any person, firm or corporation to discriminate in the lending of money, guaranteeing of loans, accepting or mortgages or otherwise making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodations or living quarters of any sort within the City because of race, color, religion, national origin or ancestry. ('88 Code, Title IX, Ch. 114, § 9.222)

§ 97.03 DISCRIMINATION BY REAL ESTATE BROKER OR SALESPERSON PROHIBITED.

It shall be unlawful for any real estate broker or salesperson to refuse to make available for inspection or to refuse to accept offers to purchase, offers to lease or any other proposed agreements with reference to the sale, exchange or lease of real property because of race, color, religion, national origin or ancestry. ('88 Code, Title IX, Ch. 114, § 9.223)

§ 97.04 DISCRIMINATION IN TERMS AND PRIVILEGES.

It shall be unlawful for an owner, lessee or sublessee of real property, or any other person concerned with transactions in real property to discriminate because of race, color, religion, national origin or ancestry with reference to the terms, conditions or privileges of the sale, rental or lease of any housing accommodations or living quarters of any sort within the City or in the furnishing of facilities or services in connection therewith. ('88 Code, Title IX, Ch. 114, § 9.224)

§ 97.05 PUBLICATION INDICATING CERTAIN PREFERENCES PROHIBITED.

It shall be unlawful for any person, firm or corporation to publish, circulate, issue or display or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or lease of real property within the City indicating exclusion of or preference for any person or group of persons based upon race, color, religion, national origin or ancestry. ('88 Code, Title IX, Ch. 114, § 9.225)

§ 97.06 FALSE OR SUBSTANTIALLY MISLEADING STATEMENTS PROHIBITED.

It shall be unlawful for any person, firm or

corporation to knowingly or intentionally present false or substantially misleading statements to authorities charged with enforcement of this chapter or to sign a complaint for violation of this chapter based upon false or substantially misleading information.

('88 Code, Title IX, Ch. 114, § 9.226)

§ 97.07 THREATS, INTIMIDATION AND THE LIKE PROHIBITED.

It shall be unlawful for any person, firm or corporation, by threats, intimidation, coercion, extortion or conspiracy to induce or attempt to induce any person owning an interest in real property in the City to violate the provisions of this chapter.

('88 Code, Title IX, Ch. 114, § 9.227)

§ 97.08 EXCEPTIONS.

(A) This chapter shall not be construed as barring any religion or denominational institution or organization, or any charitable or educational organization that is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination, or from making selections for the purpose of promoting the religious principles for which it is established or maintained.

(B) The provisions of this chapter shall not apply to the owner of a dwelling house, apartment building or multiple housing facility of any sort in which the owner or members of his immediate family resides, who rents or leases five or less housing units in the dwelling house, apartment building or multiple housing facility.

('88 Code, Title IX, Ch. 114, § 9.228)

§ 97.09 PERMISSIBLE TRANSACTIONS.

Nothing in this chapter shall be construed as:

(A) Prohibiting any person, firm or corporation from imposing any and all conditions and requirements relative to any of the transactions described in this chapter, provided such conditions do not concern race, color, religion, national origin or ancestry, and provided such conditions are imposed uniformly, regardless of race, color, religion, national origin or ancestry.

(B) Prohibiting the owner, lessee or sublessee of real property or any person, firm or corporation concerned in real estate transaction from exercising absolute discretion in establishing the terms and conditions of the sale, exchange, lease or rental of real property or in any transaction involving real property, provided such terms and conditions do not concern race, color, religion, national origin or ancestry.

(C) Requiring an owner, lessee or sublessee of real property to offer the property to the public at large before selling or renting the same.

('88 Code, Title IX, Ch. 114, § 9.229)

CHAPTER 98: TRAVEL TRAILERS

Section

- 98.01 Definition
- 98.02 License required

§ 98.01 DEFINITION.

TRAVEL TRAILERS. Travel trailers, camp trailers or vehicles designed primarily for living or sleeping or used to carry units so designed with or without tents or tent trailers. The term shall not be deemed to include a vehicle designed and intended for more or less permanent location as a residence if the same conforms in all respects to the requirements of the provisions of this code relating to housing, zoning and building regulations.

('88 Code, Title VI, Ch. 61, § 6.51)

§ 98.02 LICENSE REQUIRED.

It shall be unlawful for any person to keep, occupy or maintain any travel trailer within the City except in a trailer coach park or travel trailer park licensed in accordance with Act 243, Public Acts of the State of Michigan, as amended.

('88 Code, Title VI, Ch. 61, § 6.52) Penalty, see § 10.99

CHAPTER 99: ALARM SYSTEMS

Section

- 99.01 Definitions
- 99.02 False alarm response charge; responsibility of the alarm user
- 99.03 Unknown alarm response charge; responsibility of the alarm user
- 99.04 Authority to pursue obligation

§ 99.01 DEFINITIONS.

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

ALARM SYSTEM. A device or devices designed or arranged to signal the existence of a hazard requiring the urgent response of police or fire personnel. These systems include intrusion alarms, fire pull box alarms, and other alarms which require an emergency response by police or fire personnel.

ALARM USER. Any person who owns, possesses, controls, or otherwise exercises dominion over property upon which an alarm system is placed.

FALSE ALARM. The activation of an alarm system requiring an urgent response by the police or fire department when there is no immediate threat to life, safety, or property in, on, or about the property from which the signal originated. A false alarm shall not include alarms caused by tornadoes, earthquakes, or lightning.

UNKNOWN ALARM. The activation, due to causes that cannot be determined, of an alarm system requiring an urgent response by the police or fire department where there is no immediate threat to life, safety, or property in, on, or about the property from which the signal originated. Alarms caused by weather or electrical interruption shall not be designated unknown alarms.
(Ord. 358-6-94, passed 6-15-94)

§ 99.02 FALSE ALARM RESPONSE CHARGE; RESPONSIBILITY OF THE ALARM USER.

There is hereby established a false alarm response charge in the amount of \$50 per incident, payable by the alarm user to the City for the first three false alarms in a calendar year. This charge shall be \$75 for the fourth and each subsequent false alarm during the calendar year.
(Ord. 358-6-94, passed 6-15-94)

§ 99.03 UNKNOWN ALARM RESPONSE CHARGE; RESPONSIBILITY OF THE ALARM USER.

There is hereby established an unknown alarm response charge payable by the alarm user to the City as follows:

(A) For the first, second, and third unknown alarm during a calendar year, no charge.

(B) For the fourth, fifth, and sixth unknown alarm during a calendar year, \$50.

(C) For each unknown alarm after the sixth during a calendar year, \$75.
(Ord. 358-6-94, passed 6-15-94)

§ 99.04 AUTHORITY TO PURSUE OBLIGATION.

If an alarm user fails to pay an invoice received under this chapter within 30 days, the City may cause the cost as reflected by the invoice to be assessed against the property pursuant to the City Charter or may bring suit against the alarm user to recover such costs.
(Ord. 358-6-94, passed 6-15-94)

CHAPTER 100: PROPERTY DISPOSITION

Section

- 100.01 Abandoned personal property
- 100.02 Evidence and contraband
- 100.03 Notice to owner
- 100.04 Finders
- 100.05 Custodian of property
- 100.06 Auction sales
- 100.07 Notice of sales
- 100.08 Donations of personal property
- 100.09 Weapons and the like
- 100.10 Limitation on claims

§ 100.01 ABANDONED PERSONAL PROPERTY.

Any personal property which comes into the possession of the City and remains unclaimed for a period of six months shall be considered abandoned, except for motor vehicles which shall be handled as required by statute.

(Ord. 398-11-95, passed 11-20-95)

§ 100.02 EVIDENCE AND CONTRABAND.

Personal property seized or otherwise acquired as evidence or contraband shall not be deemed abandoned until six months after any criminal or civil forfeiture case involving the property is finally resolved by entry of a judgment and exhaustion of appeals.

(Ord. 398-11-95, passed 11-20-95)

§ 100.03 NOTICE TO OWNER.

The six-month time frame shall not begin to run until the City sends a notice by first class mail to the last known address of the owner(s), if known, advising that the personal property can be returned upon furnishing suitable proof of ownership to the City.

(Ord. 398-11-95, passed 11-20-95)

§ 100.04 FINDERS.

Personal property turned over to the City by a finder shall be retained by the city for a minimum of 30 days, during which the owner can claim the property by furnishing suitable proof of ownership to the City. If the property remains unclaimed for the 30-day period, the City shall notify the finder by first class mail and upon the request of the finder, the property shall be returned to him or her. If the finder does not request the return of the property, six months after mailing of the notice, the property shall be considered abandoned.

(Ord. 398-11-95, passed 11-20-95)

§ 100.05 CUSTODIAN OF PROPERTY.

The Director of Public Safety or the Director's appointed officer shall be the custodian of all personal property (other than motor vehicles) coming into the possession of the City's Department of Public Safety. The Director shall provide for the storage of such personal property and for maintaining records of when and how the property was acquired, and the names and addresses of owners or finders. The Director shall make reasonable diligent effort to locate rightful owners and return the property. The Director shall turn over all personal property consisting of money or securities to the City Treasurer, who shall hold such property for six months after any required notice is sent out, and thereafter convert such property into liquid assets of the City, unless claimed by the lawful owner or finder as provided herein.

(Ord. 398-11-95, passed 11-20-95)

§ 100.06 AUCTION SALES.

The Director of Public Safety shall periodically arrange for auction sales of abandoned personal property, other than money and securities. The property shall be sold at a public auction at the best possible price. All proceeds shall be turned over to the City

Treasurer and shall become the property of the City within its general fund.
(Ord. 398-11-95, passed 11-20-95)

§ 100.07 NOTICE OF SALES.

The Director of Public Safety or the Director's appointed officer shall establish the time and place of all auction sales, with notice thereof to be published at least twice, no less than ten and no more than 15 days prior to sale in a local newspaper of general circulation. The notice shall be posted at least 15 days prior to sale in City Hall. A bill of sale or other document sufficient to clarify title for the purchasers of property shall be provided upon receipt of payment at the auction sale.
(Ord. 398-11-95, passed 11-20-95)

§ 100.08 DONATIONS OF PERSONAL PROPERTY.

The Department of Public Safety, through the action of its Director, is authorized to make charitable donations of abandoned personal property (other than money or securities) valued at less than \$100 per item.
(Ord. 398-11-95, passed 11-20-95)

§ 100.09 WEAPONS AND THE LIKE.

The Director of Public Safety may destroy any dangerous weapons or other articles of personal property deemed too dangerous to store, and any perishable goods for which storage is deemed impractical. The Director also may destroy all weapons, alcoholic beverages, contraband, and any other personal property which would be illegal to sell at an auction, after the expiration of the six-month period specified above.
(Ord. 398-11-95, passed 11-20-95)

§ 100.10 LIMITATION ON CLAIMS.

No claim by an owner or finder regarding personal property which has come into the possession of the City shall be valid if it is asserted after the properly conducted auction sale or disposal of the property according to the terms of this chapter.
(Ord. 398-11-95, passed 11-20-95)
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TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. BUSINESS AND TRADE LICENSES**
- 111. PEDDLERS AND TRANSIENT MERCHANTS**
- 112. PAWNBROKERS**
- 113. GOING-OUT-OF-BUSINESS SALES**
- 114. [RESERVED]**
- 115. DEALERS OF PRECIOUS METALS AND GEMS**
- 116. MARIHUANA FACILITIES**
- 117. [RESERVED]**
- 118. [RESERVED]**
- 119. CIRCUSES, CARNIVALS, SHOWS AND EXHIBITIONS**
- 120. [RESERVED]**
- 121. [RESERVED]**
- 122. ADULT ENTERTAINMENT ESTABLISHMENTS**
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CHAPTER 110: BUSINESS AND TRADE LICENSES

Section

- 110.01 Business licenses required
- 110.02 State license not exemption
- 110.03 Application for license
- 110.04 License year
- 110.05 State license laws; compliance prerequisite
- 110.06 Compliance with code
- 110.07 Payment of fees
- 110.08 Exemption
- 110.09 Refusal to issue license; revocation, causes
- 110.10 Notice of suspension or revocation
- 110.11 Hearing by City Commission
- 110.12 Renewal of license
- 110.13 Carrying license; display; requirements
- 110.14 Expired or duplicate license; display
- 110.15 Licenses nontransferable
- 110.16 Provisions complementary and supplemental
- 110.17 Penalty fee
- 110.18 License fee and bond schedule

§ 110.01 BUSINESS LICENSES REQUIRED.

No person shall, directly or indirectly, operate, conduct, maintain or manage any business or premises for which any license or permit is required by any provision of this chapter or code without first procuring a license or permit from the City in the manner prescribed in this chapter.

(Ord. 619-11-09, passed 11-2-09)

§ 110.02 STATE LICENSE NOT EXEMPTION.

The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct, maintenance or management of any business or premises shall not exempt such person from the necessity of procuring a license or permit from the City if such license is required by this code.

(Ord. 619-11-09, passed 11-2-09)

§ 110.03 APPLICATION FOR LICENSE.

Each person required to procure a license from the City shall make application for the license to the City Clerk in the form and manner prescribed by the City Clerk and shall state under oath the facts required for, or applicable to, the granting of the license, including the following:

(A) The full names, business addresses and residence addresses of all owners, proprietors, officers, managers and local employees of applicant's business or the names and addresses of each officer if the applicant is a corporation.

(B) The place or places in the City where it is proposed to maintain applicant's business, and the length of time during which it is proposed the business will be conducted.

(C) The nature, character and quality of the goods, wares, merchandise or services to be sold or offered for sale by the applicant in the City.

(D) The nature and kind of business which the applicant proposes to conduct and the manner of operating it.

(E) A list of all assumed, trade or firm names under which the applicant intends to do business.

(F) The nature and character of advertising done or proposed to be done in order to attract customers.

(G) Whether or not the applicant or person conducting or managing applicant's business has been convicted of a crime, misdemeanor or the violation of any provision of this code or other ordinance of the City, and if so, full particulars of each conviction or violation.

(Ord. 619-11-09, passed 11-2-09)

§ 110.04 LICENSE YEAR.

The license year shall terminate on December 31 at 12:00 midnight next after the issuance of the

license. In all cases where the provisions of this code permit the issuance of licenses for periods of less than one year, the expiration date shall be indicated on the face of the license.

(Ord. 619-11-09, passed 11-2-09)

§ 110.05 STATE LICENSE LAWS; COMPLIANCE PREREQUISITE.

No license or permit required by this chapter or code shall be issued to any person who is required to have a license or permit from the state until such person shall submit evidence of the state license or permit and proof that all fees for it have been paid.

(Ord. 619-11-09, passed 11-2-09)

§ 110.06 COMPLIANCE WITH CODE.

No license shall be granted to any applicant therefore until the applicant has complied with all of the provisions of this chapter and code pertaining to the business for which application is made, nor shall any license be granted where the approval of any officer of the City is required prior to the issuance thereof until such approval is made.

(Ord. 619-11-09, passed 11-2-09)

§ 110.07 PAYMENT OF FEES.

No license shall be issued until the fees set forth in § 110.18 shall be paid by the applicant to the City Clerk.

(Ord. 619-11-09, passed 11-2-09)

§ 110.08 EXEMPTION.

No license fee shall be required from any person exempt from payment of the fee by state or federal law. Such persons shall comply with all other provisions of this chapter. The City Clerk shall, in all such cases, issue to such persons licenses which are clearly marked as to said exemption and the reason therefore.

(Ord. 619-11-09, passed 11-2-09)

§ 110.09 REFUSAL TO ISSUE LICENSE; REVOCATION, CAUSES.

Licenses requested under this chapter may be refused by the City Clerk or City Manager and

licenses issued may be suspended or revoked by the City Clerk or City Manager at any time, for any of the following causes:

(A) Fraud, misrepresentation or false statement contained in the application for license.

(B) Fraud, misrepresentation or false statement made in the operation of a business.

(C) Any violation of this code.

(D) Conducting a business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, morals, safety or welfare of the public.

(E) The failure or inability of an applicant to meet and satisfy the requirements and provisions of this code.

(Ord. 619-11-09, passed 11-2-09)

§ 110.10 NOTICE OF SUSPENSION OR REVOCATION.

Written notice of suspension or revocation stating the cause or causes therefor shall be delivered to the licensee personally or mailed to the address stated in the application for license.

(Ord. 619-11-09, passed 11-2-09)

§ 110.11 HEARING BY CITY COMMISSION.

(A) Any person whose license is revoked or suspended or any person whose request for a license is refused shall have the right to a hearing before the City Commission provided a written request therefore is filed with the City Clerk within ten days following the delivery or mailing of notice of revocation or suspension or within ten days following such refusal.

(B) The City Commission may reverse any refusal to issue a license or any suspension or revocation of a license, and the City Commission may grant or reinstate any license. No person shall operate any business when the license or permit has been suspended, revoked, or canceled.

(Ord. 619-11-09, passed 11-2-09)

§ 110.12 RENEWAL OF LICENSE.

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

(Ord. 619-11-09, passed 11-2-09)

§ 110.13 CARRYING LICENSE; DISPLAY; REQUIREMENTS.

No licensee shall fail to carry any license issued in accordance with the provisions of this chapter or code upon his person at all times when engaged in the operation, conduct or maintenance of any business for which the license was granted; except that where such business is operated, conducted or maintained at a fixed place or establishment, said license shall be displayed at all times in some conspicuous place in his place of business; and he shall produce the same for examination when applying for a renewal thereof or when requested to do so by any City police officer or by any person representing the issuing authority.

(Ord. 619-11-09, passed 11-2-09)

§ 110.14 EXPIRED OR DUPLICATE LICENSE; DISPLAY.

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

(Ord. 619-11-09, passed 11-2-09)

§ 110.15 LICENSES NONTRANSFERABLE.

No license or permit issued under the provisions of this code shall be transferable, unless specifically so provided herein.

(Ord. 619-11-09, passed 11-2-09)

§ 110.16 PROVISIONS COMPLEMENTARY AND SUPPLEMENTAL.

The general provisions of this chapter, together with other relevant provisions of any other chapter of

this code, or the general provisions hereafter authorized, or required by state law, and any and all thereof relative to licenses, permits, businesses, premises or anything connected therewith, shall each be construed to be complementary and supplemental to each other so far as relevant, and where not otherwise provided or inconsistent herewith, constitute a part of the regulations and conditions applicable generally to any particular license or permit in the same manner as though these provisions were fully written into each separate chapter.

(Ord. 619-11-09, passed 11-2-09)

§ 110.17 PENALTY FEE.

Any business requiring a yearly business license will be charged a penalty fee of 25% of the normal fee after 15 days from date of license expiration; 50% after 30 days and double the license fee after 60 days if such business was in business on December 31 preceding the license year.

(Ord. 619-11-09, passed 11-2-09)

§ 110.18 LICENSE FEE AND BOND SCHEDULE.

(A) Schedule established. The fee required to be paid and the amount of any bond required to be posted to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of this code shall be as hereinafter provided in this chapter. No license shall be issued to any applicant unless he first pays to the City Clerk the fee and posts a bond in the amount required for the type of license desired.

(B) Fees for licenses. Fees for licenses shall be as prescribed in the following schedule under the business, trade, occupation, or privilege to be licensed. Bonds, where required, shall be in the amounts listed beneath the license fee prescribed for such business.

(C) License fee and bond schedule.

[Text resumes on page 6.]

Big Rapids - Business Regulations

Type of Business	Fee
Circus, Menagerie, Carnival, Exhibition, Side Show (Chapter 119)	
First day	\$100
Each subsequent day	\$50
Bond, conditioned to indemnify the City or others for any property damage and clearing premises	\$3,000
Pawnbrokers and Secondhand Dealers (Chapter 112)	
Pawnbrokers – Annual fee	\$200
Bond	\$3,000
Secondhand Dealers	\$50
Junk Dealers	\$50
Antique Dealers	\$50
Peddlers (Chapter 111)	
Per day	\$20
Per week	\$50
Per month	\$75
Per year	\$100
Under 16 years of age	\$0
Subject to restriction of the use of such streets as may be designated by the Director of Public Safety	
Transient Merchants (Chapter 111)	
Farm Products – Produce	
Per day	\$5
Per month	\$25
Per year	\$30
Christmas Tree Sales – For the sale season (approximately one month)	\$25
Dealers in Precious Metals and Gems (Chapter 115)	
Certificate of Registration – Annual fee	\$50
Other Merchants	
Per day	\$35
Per week	\$50
Per month	\$75
Per six months	\$100
Per year	\$200
Going-Out-of-Business (Chapter 113)	
(Set by State Law)	
First 30 days of the sale	\$50
Renewal for 30 days	\$50

Business and Trade Licenses

6A

Type of Business	Fee
Mobile Food Vendors	
Per year	\$100
Per month	\$75
Per week	\$50
Per day	\$20

(Ord. 619-11-09, passed 11-2-09; Am. Ord. 624-05-10, passed 5-17-10; Am. Ord. 632-11-10, passed 11-1-10; Am. Ord. 642-12-11, passed 12-5-11; Am. Ord. 686-02-15, passed 2-16-15; Am. Ord. 696-06-16, passed 6-20-16; Am. Ord. 717-02-18, passed 2-19-18)

CHAPTER 111: PEDDLERS AND TRANSIENT MERCHANTS

Section

- 111.01 Definitions
- 111.02 License required
- 111.03 License displayed
- 111.04 Veteran's exemption
- 111.05 Closing out sales
- 111.06 License requirements for employees, agents, consignees or unincorporated firms or associations
- 111.07 Mobile food vendors
- 111.08 Door-to-door hours in residential areas
- 111.09 Exempt activities

§ 111.01 DEFINITIONS.

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

MOBILE FOOD VENDING. Vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a Food Service Establishment under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with the food, such as a tee shirt that bears the name of the organization engaged in **MOBILE FOOD VENDING**.

MOBILE FOOD VENDING UNIT. Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food and/or beverages is/are vended, served, or offered for sale.

OPERATE. All activities associated with the conduct of business, including the set up and take down activities and/or the actual hours where the mobile food vending unit is open for business.

PEDDLER. Any person who goes about from place to place, selling or offering for sale, goods, wares, merchandise and all kinds of property, traveling on foot or in vehicles, and selling from

house to house without prior specific invitation or appointment from the resident, or by crying his wares from the street. Such term shall include "hawker", "solicitor" and "huckster."

TRANSIENT MERCHANT. Any person engaged temporarily in the retail sale of goods, wares or merchandise, in any place in this City and who, for the purpose of conducting such business, occupies or uses any lot, building, truck, trailer, stall, room, tent, canopy or structure of any kind.

(1) Such term shall include: "itinerant merchants," "itinerant vendors" and persons engaged in selling goods, wares or merchandise at retail in this City and who are not on the tax rolls of this City; and

(2) Any person who commences a business of selling goods, wares and merchandise at retail within the City after the first day of January in any year and who is not assessed on the tax roll for that year and who occupies or uses the licensed premises for a period of less than 180 days shall be deemed a **TRANSIENT MERCHANT** within the meaning of this chapter.

VENDOR. Any individual engaged in the business of mobile food vending; if more than one individual is operating a single stand, cart or other means of conveyance, then **VENDOR** shall mean all individuals operating the single stand cart or other means of conveyance.

(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.02 LICENSE REQUIRED.

It shall be unlawful for any person to engage in business as a peddler, route salesman or transient merchant in the City without first having procured a license from the Clerk as herein provided. A person, persons, or company applying for a business license under this section shall complete an Authorization to

Obtain a Criminal History Report form, and submit it along with the current fee for obtaining such report, to the City Clerk for processing. No license shall be granted except upon approval of the Director of Public Safety. Mobile food vendors must obtain a permit or license from the Health Department and provide a copy to the City Clerk.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.03 LICENSE DISPLAYED.

(A) An application for a license under this chapter shall be accompanied by a fee as set forth in § 110.18.

(B) Persons under the age of 16 years of age, where all proceeds are retained by the person, shall be exempt from the license fee. No adult or business shall hire or subcontract with persons under 16 years of age in an attempt to evade the provisions of this chapter.

(C) All licenses issued to peddlers, transient merchants, and mobile food vendors shall be displayed upon each mobile vending unit, and upon request made to all licensees.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.04 VETERANS EXEMPTION.

A veteran who obtains a veteran's license from a County Clerk pursuant to MCL 35.442 is exempt from having to obtain a City license as a peddler, transient merchant, or mobile food vendor, but the person holding the veteran's license must comply with all the applicable City code regulations, must display the veteran's license in the same manner that the City license must be displayed, and must provide a copy of the veteran's license to the City Clerk.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.05 CLOSING OUT SALES.

No transient merchant shall advertise, represent or hold out to the public any sale as being the sale of a bankrupt's stock, creditor's, administrator's, executor's sale or closing out sale; or sale of merchandise damaged by fire, water or otherwise unless at the time of making application for a license as herein required, he states under oath all the facts

relative to the sale he proposes to conduct, including the name and addresses of the persons from whom the merchandise to be sold was purchased and a full description of all of the goods, wares and merchandise to be sold. The Clerk shall thereupon issue the license for the type of sale specified in the application.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.06 LICENSE REQUIREMENTS FOR EMPLOYEES, AGENTS, CONSIGNEES OR UNINCORPORATED FIRMS OR ASSOCIATIONS.

A transient merchant license may be issued to a person carrying on the business of peddler or transient merchant in the City through employees. Such employees shall carry a duplicate license issued to the person. If the business of peddler or transient merchant is carried on through agents who are not employees, but consignees or by an unincorporated firm or association, each person so conducting the business of peddler or transient merchant shall be required to have a separate license.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-06-16, passed 6-20-16)

§ 111.07 MOBILE FOOD VENDORS.

All vendors engaging in mobile food vending shall:

(A) Locate and operate only in those City parks posted "LICENSED MOBILE FOOD VENDORS ALLOWED," in compliance with Park and Recreation Board rules on the location and hours of operation of the mobile food vending units in the park.

(B) Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis.

(C) Operate on City-owned or controlled property, in compliance with applicable parking regulations.

(D) Not operate on public property within a block of a City-authorized street fair, public festival, farmer's market, or special event without authorization from the event sponsor.

(E) Not use any flashing, blinking or strobe lights and all exterior lights over 60 watts shall contain opaque hoods or shields to direct the illumination downward.

(F) Not use loud music or amplification devices or "crying out" to gain attention in any manner that causes a disturbance or safety hazard.

(G) Comply with the City's Noise Ordinance, Sign Ordinance and all other City code provisions.

(H) Comply with all applicable federal, state and county regulations.

(I) Display only one portable sign up to six square feet, with no dimension greater than three feet and no height (with legs) greater than four feet, located within five feet of the unit; and under no circumstance shall the sign be placed upon the sidewalk or impede pedestrian and/or vehicle traffic.

(J) Operate in residential areas only between the hours of 9:00 a.m. and 9:00 p.m. and in commercial areas only between the hours of 7:00 a.m. and 11:00 p.m. On private property within a commercial area, a mobile food vendor may operate only between the hours of 6:00 a.m. and 3:00 a.m.

(K) Not locate or operate within 500 feet of the entrance to any school building between the hours of 8:00 a.m. and 5:00 p.m. on the days when school is in session.

(L) Not leave a mobile food vending unit unattended for more than two hours; and any mobile food vending unit not in operation shall be removed from all City and public property between the hours of 11:00 p.m. and 7:00 a.m. in commercial areas and 9:00 p.m. to 9:00 a.m. in residential areas.

(M) Not represent the granting of a license by the City as an endorsement of the food vendor by the City.

(N) Not utilize any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended across any City street, alley or sidewalk except in a manner that does not impede pedestrian or vehicular traffic, or cause any safety hazard.

(O) Not set up or locate in a place that blocks or impedes wheelchair and handicapped access or travel on sidewalks.

(P) Not locate or operate within the road right-of-way in any manner that impedes vehicular traffic.

(Q) Not take up public parking spaces or parking lots, except as authorized or permitted as part of a special event or festival.

(R) Locate no closer than 150 feet from businesses that sell the same food product as the mobile food vendor.

(S) Obtain a mobile food vendor's license and register street vending location(s) with the City Clerk and pay a fee of \$100.

(T) Comply with the terms of permits issued to the Chamber of Commerce, Downtown Business Association and other sponsors who obtain special event permits to use parking lots, close streets, conduct parades and other civic activities. Vendors that are invited by the event sponsors to participate in these events may use the areas blocked off and reserved for these special event activities. Permits for these special event activities are exclusively controlled by the sponsors of these events. Vendors not invited to participate in these activities may locate on public property no closer than 200 feet from the area reserved by the special event permit.
(Ord. 695-05-16, passed 6-20-16)

§ 111.08 DOOR-TO-DOOR HOURS IN RESIDENTIAL AREAS.

No person shall engage in selling door-to-door in residential areas prior to 9:00 a.m. or after 8:00 p.m., or sunset, whichever is earlier, on any weekday or Saturday, or at any time on Sunday, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas.
(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-05-16, passed 6-20-16)

§ 111.09 EXEMPT ACTIVITIES.

Persons engaged in the following described activities are exempt from the duty of applying for license under this section:

(A) The sale of goods, wares or merchandise, or solicitations on behalf and solely for the benefit of any recognized charitable or religious purpose.

(B) Commercial travelers employed by wholesale houses, who take or seek to take the orders from merchants for goods, wares or merchandise and other personal property for the purpose of resale by the merchant.

(C) Persons selling or delivering tangible personal property or services through or for a permanent business located within the City.

(D) Persons selling at events for which a blanket license has been obtained.

(E) Persons selling or distributing newspapers.

(F) Persons who sell, at their permanent residence in the City, works of art or crafts made or created by such person or a member of such person's immediate family.

(G) Persons selling tangible personal property at a garage, basement or yard sale held at one of the person's premises, if permitted under the terms of the Zoning Code.

(H) Persons conducting and selling admissions to or for theatricals, shows, rides, sports and games, concerts, circuses, carnivals or any other public amusement where no sales of other products are involved.

(I) A person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at another permanent business located within the City.

(J) A persons soliciting orders by sample, brochures or sales catalogue (cosmetics, kitchen ware, jewelry, etc.) for future delivery, or making sales on residential premises pursuant to an invitation issued by the owner or legal occupant of the premises.

(Ord. 616-11-09, passed 11-2-09; Am. Ord. 695-05-16, passed 6-20-16)

CHAPTER 112: PAWNBROKERS AND SECONDHAND DEALERS

Section

- 112.01 Definitions
- 112.02 License required
- 112.03 License fee
- 112.04 Pawnbroker bonds
- 112.05 Sunday pawnbroker operations prohibited
- 112.06 Acceptance of property from certain persons prohibited
- 112.07 Records required; contents; inspection
- 112.08 Destruction or defacing of pawned property
- 112.09 Revocation of license
- 112.10 Penalty

Cross-reference:

Dealers of Precious Metals and Gems, see Ch. 115

§ 112.01 DEFINITIONS.

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

ANTIQUE DEALER. A person, corporation, limited liability company, member or members of a copartnership or firm specializing in appraising, buying and selling antiquities, antiques, and collectables.

PAWNBROKER. A person, corporation, limited liability company, member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

SECONDHAND DEALER OR JUNK DEALER. Any person, corporation, limited liability company, member, or members of a copartnership or firm whose principal business is that of purchasing, selling, exchanging, storing, or receiving second hand articles of any kind, scrap metals, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, or lighting and plumbing fixtures,

but excluding sellers of donated goods. Secondhand dealer or junk dealer does not include a scrap processor, an automotive recycler, or a junkyard that deals principally in industrial scrap and is licensed by a city, village, or county.

(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10; Am. Ord. 635-1-11, passed 2-7-11)

§ 112.02 LICENSE REQUIRED.

(A) No person shall engage in the business of a pawnbroker, secondhand dealer, junk dealer or antique dealer without first procuring a license from the City of Big Rapids signed by the Mayor with the approval of the Director of Public Safety.

(B) A person, persons or company applying for a pawnbroker license shall complete an authorization to obtain a criminal history report form, and submit it along with the current fee for obtaining the report, to the City Clerk for processing. The Director of Public Safety shall review and consider the criminal history prior to approving or disapproving the pawnbroker license. Any person, persons or company disapproved by the Director of Public Safety for a pawnbroker license shall be entitled to a meeting with the Director of Public Safety and the opportunity to be heard on the reason for disapproval.

(C) The license shall designate the particular place in the City where the license holder shall carry on the business, and no person shall carry on the business in any place other than the one designated in the license.

(D) The license period shall be for one year from January 1 to December 31, unless sooner revoked for cause, and shall not be transferable. If a license is issued for a partial year, the license fee amount will be pro-rated from the date of issuance of the license to December 31.

(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10; Am. Ord. 635-1-11, passed 2-7-11)

§ 112.03 LICENSE FEE.

No pawnbroker, secondhand dealer, or junk dealer license shall be issued without first paying an annual license fee in the amount established by the City in Chapter 110, § 110.18.
(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10)

§ 112.04 PAWNBROKER BONDS.

(A) Before any pawnbroker license is issued, the applicant shall furnish a surety bond with at least two sureties, or a cash bond in the penal sum of \$3,000 conditioned on the faithful performance of the duties and obligations pertaining to the conduct of the business and for the payment of all costs and damages incurred by any violation of the statute. The bond shall be approved and kept on file by the City Clerk.

(B) Any person aggrieved by the action of a licensed pawnbroker shall have a right of action on the bond for the recovery of damages or to enforce any lawful right. The bond shall remain in force for 90 days after the expiration or cancellation of the license. Any cash bond posted with the City shall be returned to the license holder without interest 90 days after the expiration or cancellation of the license, or after termination of any action against the bond, whichever is later.
(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10)

§ 112.05 SUNDAY PAWNBROKER OPERATIONS PROHIBITED.

No pawnbroker license shall authorize any business to be transacted by a pawnbroker on Sunday.
(Ord. 623-05-10, passed 5-17-10)

§ 112.06 ACCEPTANCE OF PROPERTY FROM CERTAIN PERSONS PROHIBITED.

A licensed pawnbroker or secondhand dealer shall not accept, receive for pawn, purchase, or acquire any article from a person under 18 years of age, or a person the pawnbroker or secondhand dealer suspects stole the article.
(Ord. 623-05-10, passed 5-17-10)

§ 112.07 RECORDS REQUIRED; CONTENTS; INSPECTION.

(A) A licensed pawnbroker or secondhand dealer shall keep a record in English, at the time the pawnbroker or secondhand dealer receives any article of personal property or other valuable thing by way of pawn or purchase in the course of business, that includes a description of the article, a sequential transaction number, any amount of money loaned on or paid for the article, the name, residence, general description, and driver license number, official state identification card number, or government identification number of the person from whom the article was received, and the day and hour when the article was received. The record, the place where the business is conducted, and all articles of property in the place of business are subject to examination at any time by the attorney of the governmental unit, local police agency, county prosecuting attorney, and the department of state police.

(B) Upon receipt of any article of personal property or other valuable thing by way of pawn, purchase, or trade, the pawnbroker or secondhand dealer shall make a permanent record of the transaction on a form provided by the pawnbroker or secondhand dealer that substantially complies with the form described in MCL 446.205(4). Each record shall be completed legibly in duplicate by the pawnbroker or secondhand dealer in the English language, and shall contain all of the information required by MCL 446.205(4). The pawnbroker or secondhand dealer shall retain a record of each transaction and, within 48 hours after the property is received, shall send one copy of the record of transaction to the Big Rapids Department of Public Safety.
(Ord. 623-05-10, passed 5-17-10)

§ 112.08 DESTRUCTION OR DEFACING OF PAWNED PROPERTY.

(A) A pawnbroker shall not deface, scratch, obliterate, melt, separate, or break into parts any article or thing received in pawn, or otherwise cause or allow to be done by others, anything that destroys the identity of the article or thing, or makes identification of the article or thing more difficult.

(B) A pawnbroker shall not accept by way of pledge, pawn, purchase or exchange any article or thing that customarily bears a manufacturer's serial number or other identifying insignia unless the serial number or insignia is plainly visible.
(Ord. 623-05-10, passed 5-17-10)

§ 112.09 REVOCATION OF LICENSE.

Upon the conviction of any person doing business as a pawnbroker, secondhand dealer, or junk dealer under this chapter, or upon the conviction of any clerk, agent, or employee of a pawnbroker, secondhand dealer, or junk dealer upon any charge of violating a provision of this chapter or corresponding state law, the license of the pawnbroker, secondhand dealer, or junk dealer shall be revoked by the City Clerk after notice to the license holder and an opportunity to be heard by the City Clerk. No part of the license fee shall be returned after revocation, and no license for a pawnbroker, secondhand dealer, or junk dealer shall be issued to the person for one year from the date of revocation.

(Ord. 623-05-10, passed 5-17-10; Am. Ord. 631-11-10, passed 11-1-10)

§ 112.10 PENALTY.

The violation of any provision of this chapter shall be a misdemeanor punishable by a fine of up to \$500 and jail of up to 90 days.

(Ord. 623-05-10, passed 5-17-10)

CHAPTER 113: GOING-OUT-OF-BUSINESS SALES

Section

- 113.01 Definitions
- 113.02 Exemptions from chapter provisions
- 113.03 License required
- 113.04 Application requirements
- 113.05 Issuance of license
- 113.06 License fee
- 113.07 Display of license
- 113.08 Advertisement

sale of goods, or the sale of goods which have been damaged by fire, smoke, water or otherwise, who acquired the goods for the account of others as a result of fire or other casualty.

(B) The provisions of this chapter shall not apply to sheriffs, constables, or other public or court officers, or to any other person acting under the license, direction or authority of any court, state or federal, selling goods, wares or merchandise in the course of their official duties.

(Ord. 618-11-09, passed 11-2-09)

§ 113.01 DEFINITIONS.

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

GOING-OUT-OF BUSINESS SALE. Any sale, whether described by such name or by any other name such as, but not limited to, "closing out sale", "liquidation sale", "lost-our-lease sale", "forced to vacate sale", held in such a manner as to indicate a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted.

GOODS. All goods, wares, merchandise and other personal property, excepting, choses in action and money.

PERSON. Includes a person, firm, corporation, partnership, association or two or more persons having a joint or common interest.

REMOVAL SALE. Any sale held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted, and thereafter will be moved to and occupy another location.
(Ord. 618-11-09, passed 11-2-09)

§ 113.02 EXEMPTIONS FROM CHAPTER PROVISIONS.

(A) This chapter shall not apply to any sales by a person regularly engaged in insurance or salvage

§ 113.03 LICENSE REQUIRED.

Pursuant to the provisions of Act No. 39 of the Public Acts of Michigan of 1961 (MCL 442.211 et seq.), as amended, a license issued by the City Clerk shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by any means to be one of the following kinds:

(A) Going-out-of-business sale.

(B) Removal-of-business sale.

(C) Sale of goods damaged by fire, smoke or otherwise.

(Ord. 618-11-09, passed 11-2-09)

§ 113.04 APPLICATION REQUIREMENTS.

A person desiring to conduct a sale regulated by this chapter shall make a written application to the City Clerk setting forth and containing the following information:

(A) Any applicant for a license under this chapter shall file an application in writing and under oath with the City Clerk setting out the following facts and information regarding such a proposed sale:

(1) The name and address of the applicant for the license, who must be the owner of the goods to be sold, and in addition, if the applicant is a partnership, corporation, firm or association, the name and the position of the individual filing such application;

(2) The name and style in which such sale is to be conducted, and the address where the sale is to be conducted;

(3) The dates and period of time during which the sale is to be conducted;

(4) The name and address of the person who will be in charge and responsible for the conduct of the sale;

(5) A full explanation with regard to the condition or necessity, which is the occasion for the sale, including a statement of the descriptive name of the sale and the reasons why the name is truthfully descriptive of the sale. Going-out-of-business applications shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale. If the application is for a license to conduct a removal sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale, in addition to the location of the premises to which the business is to be moved. If the application is for a license to conduct a sale of goods damaged by fire, smoke, water or otherwise, it shall also contain a statement as to the time, location and cause of the damage;

(6) A full, detailed, and complete inventory of the goods that are to be sold, which inventory shall:

(a) Itemize the goods to be sold and contain sufficient information concerning each item, including make and brand name, if any, to clearly identify it;

(b) List separately any goods, which were purchased during a 60-day period immediately prior to the date of making application for the license;

(c) Show the cost price of each item in the inventory together with the name and address of the seller of the items to the applicant, the date of the purchase, the date of the delivery of each item to the applicant and the total value of the inventory at cost;

(d) In no case exceed 200% of the total value of merchandise upon which personal property tax was paid by the applicant or his predecessor as evidence by a copy of the last personal property tax receipt issued;

(e) A statement that no goods will be added to the inventory after the application is made or during the sale and that the inventory contains no goods received on consignment.

(B) Any person making a false statement in the application provided for in this section shall be in violation of this chapter.

(Ord. 618-11-09, passed 11-2-09)

§ 113.05 ISSUANCE OF LICENSE.

(A) A license shall be issued hereunder on the following terms:

(1) (a) A license to conduct a sale issued pursuant to this chapter shall not be issued or valid for a period of more than 30 days from the start of the sale, and the sale may be conducted only during the period set forth in the license.

(b) The license may be renewed not more than twice for a period not to exceed 30 days for each renewal upon affidavit of the licensee that the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory previously filed pursuant to this article, by purchase, acquisition or consignment or otherwise. The application for renewal of the license shall be made not more than 13 days prior to the time of the expiration of the license and shall contain a new inventory of goods remaining on hand at the time the application for renewal is made, which new inventory shall be prepared and furnished in the same manner and form as the original inventory. No renewal shall be granted if any goods have been added to the stock listed in the inventory since the date of the issuance of the license. A fee of \$50.00 shall accompany an application for the license and for the renewal of a license.

(2) The license shall authorize only the one type of sale described in the application at the location named therein.

(3) The license shall authorize only the sale of goods and merchandise described in the inventory attached to the application; no person shall order any goods for the purpose of selling and disposing of the same under any sale authorized by this chapter. Any unusual purchase or additions to the stock within 60 days prior to the filing of the application hereunder shall be presumptive evidence that the purchases and additions were in contemplation of the sale authorized by this chapter.

(4) Any license herein provided for shall not be assignable or transferable.

(B) No license under this chapter shall be issued to any person:

(1) To conduct a sale in the trade name or style of a person in whose goods the applicant for the license has acquired a right or title thereto within six months prior to the time of making application for such a license.

(2) To conduct a sale, other than sale of goods damaged by fire, smoke, or otherwise on the same premises within one year from the conclusion of a prior sale of the nature covered by this act.

(C) Divisions (B)(1) and (2) above shall not apply to any person who acquired right or title in goods as an heir, devisee or legatee or pursuant to a court order of a court of competent jurisdiction.

(D) No license under this chapter shall be issued unless all personal property taxes due or which will become due by the time of the sale from the business seeking the license have been paid or until arrangements satisfactory to the city treasurer have been made for payment of said taxes from the proceeds of the sale.

(Ord. 618-11-09, passed 11-2-09)

§ 113.06 LICENSE FEE.

Any applicant for a license under this chapter shall submit to the City Clerk with his application a license fee, as prescribed in § 110.18.

(Ord. 618-11-09, passed 11-2-09)

§ 113.07 DISPLAY OF LICENSE.

A copy of the application for a license to conduct a sale under this chapter, including the inventory filed herewith, shall be posted in a conspicuous place in the sales room or place where the inventoried goods are to be sold, so that the public may be informed of the facts relating to the goods before purchasing same, but the copy need not show the purchase price of the goods. The duplicate copy of a license shall be attached to the front door of the premises where the sale is conducted in such a manner that it be clearly visible from the street.

(Ord. 618-11-09, passed 11-2-09)

§ 113.08 ADVERTISEMENT.

Any advertisement or announcement published in connection with any sale outlined under this chapter shall conspicuously show on its face the number of license issued by the City Clerk and the date of its expiration.

(Ord. 618-11-09, passed 11-2-09)

CHAPTER 114: [RESERVED]

[Next chapter begins on page 23.]

CHAPTER 115: DEALERS OF PRECIOUS METALS AND GEMS

Section

- 115.01 Purpose
- 115.02 Definitions
- 115.03 Application by a dealer
- 115.04 Fees
- 115.05 Issuance of certificate of registration
- 115.06 Posting of certificate of registration
- 115.07 Hours of operation
- 115.08 Recordkeeping
- 115.09 Penalty for violation

Cross-reference:

Pawnbrokers and Secondhand Dealers, see Ch. 112

§ 115.01 PURPOSE.

This Chapter shall establish the procedure for the City of Big Rapids to issue a certificate of registration to a dealer in precious metals and gems as required by The Precious Metal and Gem Dealer Act, MCL 445.481 et seq. (Ord. 636-1-11, passed 2-7-11)

§ 115.02 DEFINITIONS.

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

AGENT OR EMPLOYEE. A person who, for compensation or valuable consideration, is employed either directly or indirectly by a dealer.

DEALER. Any person, corporation, partnership, or association, which, in whole or in part, engages in the ordinary course of repeated and recurrent transactions of buying or receiving precious items from the public within this state.

GOLD. Elemental gold having an atomic weight of 196.967 and the chemical element symbol of Au, whether found by itself or in combination with its alloys or any other metal.

JEWELRY. An ornamental item made of a material that includes a precious gem.

LOCAL POLICE AGENCY. The Department of Public Safety for the City of Big Rapids.

PLATINUM. Elemental platinum having an atomic weight of 195.09 and the chemical element symbol of Pt, whether found by itself or in combination with its alloys or any other metal.

PRECIOUS GEM. A diamond, alexandrite, ruby, sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet, jadeite, topaz, tourmaline, turquoise or pearl.

PRECIOUS ITEM. Jewelry, a precious gem, or an item containing gold, silver, or platinum. Precious items do not include the following:

(1) Coins, commemorative medals, and tokens struck by, or in behalf of, a government or private mint.

(2) Bullion bars and discs of the type traded by banks and commodity exchanges.

(3) Items at the time they are purchased directly from a dealer registered under this chapter, a manufacturer, or a wholesaler who purchased them directly from a manufacturer.

(4) Industrial machinery or equipment.

(5) An item being returned to or exchanged at the dealer where the item was purchased and which is accompanied by a valid sales receipt.

(6) An item which is received for alteration, redesign, or repair in a manner that does not substantially change its use and returned directly to the customer.

(7) An item which does not have a jeweler's identifying mark or a serial mark and which the dealer purchases for less than \$5.00.

(8) Scrap metal which contains incidental traces of gold, silver, or platinum which are recoverable as a byproduct.

(9) Jewelry which a customer trades for other jewelry having a greater value, and which difference in value is paid by the customer.

SILVER. Elemental silver having an atomic weight of 107.869 and the chemical symbol of Ag, whether found by itself or in combination with its alloys or any other metal.
(Ord. 636-1-11, passed 2-7-11)

§ 115.03 APPLICATION BY A DEALER.

No dealer shall conduct business in the City of Big Rapids unless the dealer has first obtained a certificate of registration from the City.

(A) A dealer who applies for a certificate of registration shall complete an application form as provided by the City Clerk's Office, which at a minimum, shall contain the following information:

(1) Name, home address, phone number, copy of driver's license, date of birth, and right thumb print (print to be affixed to the application by the Public Safety Department or City Clerk's Office). Applications for more than one establishment shall be made on separate application forms.

(2) The name, address, telephone number, and hours of the dealer's business. If the dealer's business is a corporation, an updated copy of the articles of incorporation must be provided, or if the dealer's business is a limited liability company, an updated copy of the articles of organization must be provided, or if the dealer's business is a partnership, a valid certified copy of the assumed name certificate from the county clerk must be provided.

(3) The name, address, date of birth and right thumbprint of each employee or agent of the dealer. Within 24 hours after hiring a new employee, and before that employee makes any transactions, the dealer shall forward to the Department of Public Safety the name, address and thumbprint of the new employee.

(B) The dealer shall also submit a signed statement indicating that he has read and understands the provisions of Public Act No. 95 of 1981 (MCL 445.481 et seq.), as amended, as provided to him by the City Clerk's Office or Department of

Public Safety, and further that the dealer has informed his agents or employees, and will immediately inform all new agents or employees, as to the provisions of the Public Act 95 of 1981, as amended.

(C) The dealer shall submit a signed statement that neither he or she nor any of his or her agents or employees has been convicted of a felony under Public Act No. 95 of 1981 (MCL 445.481 et seq.), as amended, or under section 535 of Public Act No. 328 of 1931 (MCL 750.535), as amended, within the five-year period preceding the date of the application, or convicted of a misdemeanor under such laws within a one-year period preceding the date of this application.

(D) The dealer shall submit proof of proper zoning approval permits for the site on which the business will be operated.
(Ord. 636-1-11, passed 2-7-11)

§ 115.04 FEES.

The dealer shall pay an annual fee of \$50 to cover the reasonable cost of processing and issuing the certificate of registration.
(Ord. 636-1-11, passed 2-7-11; Am. Ord. 686-02-15, passed 2-16-15)

§ 115.05 ISSUANCE OF CERTIFICATE OF REGISTRATION.

The Public Safety Director or designee shall be responsible for reviewing all applications for a certificate of registration. Upon receipt of the application and the completion of its investigation, the Public Safety Department will return the application and a signed certificate of registration to the City Clerk's Office, if the applicant is qualified to receive it. The signed certificate of registration will be issued to the dealer.
(Ord. 636-1-11, passed 2-7-11)

§ 115.06 POSTING OF CERTIFICATE OF REGISTRATION.

The certificate of registration shall be posted by the dealer in a conspicuous place at the location where transactions will occur or at the dealer's place of business within the City.
(Ord. 636-1-11, passed 2-7-11)

§ 115.07 HOURS OF OPERATION.

No dealer shall conduct business as provided in this chapter between the hours of 9:00 p.m. and 8:00 a.m.

(Ord. 636-1-11, passed 2-7-11)

§ 115.08 RECORDKEEPING.

The dealer, or his or her agents/employees, shall maintain a permanent record of each transaction, on a record of transaction form per subsection (6) of the Act No. 95 of the Public Acts of 1981, as amended, being MCL 445.481 through MCL 445.492.

(Ord. 636-1-11, passed 2-7-11)

§ 115.09 PENALTY FOR VIOLATION.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500, or be imprisoned for a period of not more than 90 days, or both such fine and imprisonment in the discretion of the court.

(Ord. 636-1-11, passed 2-7-11)

CHAPTER 116: MARIHUANA FACILITIES

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- 116.47 Reports of crime
- 116.48 Inspection of licensed premises
- 116.49 Other laws remain applicable
- 116.50 Grant of administrative authority

GENERAL PROVISIONS

§ 116.01 TITLE.

This chapter is to be known and may be cited as the City of Big Rapids Medical Marijuana Facilities Ordinance.
(Ord. 749-10-19, passed 10-7-19)

§ 116.02 PURPOSE.

(A) *Purpose.* The purpose of this chapter is to implement the provisions of Public Act 281 of 2016, being the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), to protect the public health, safety, and welfare of the residents and patients of the City by setting forth the manner in which medical marihuana facilities can be operated in the City. Further, the purpose of this chapter is to:

(1) Authorize the establishment of medical marihuana facilities within the City and provide standards and procedures for the review, issuance, renewal, and revocation of City-issued permits for such facilities;

(2) Impose fees to defray and recover the cost to the City of the administrative and enforcement costs associated with medical marihuana facilities; and

(3) Coordinate with laws and regulations enacted by the state addressing medical marihuana.

(B) *Legislative intent.* This chapter authorizes the establishment of medical marihuana facilities within the City consistent with the provisions of the Michigan Medical Marihuana Facilities Act, and subject to the following:

(1) The use, distribution, cultivation, production, possession, and transportation of medical marihuana remains illegal under federal law, and marihuana remains classified as a "controlled substance" by federal law. Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law. Nothing in this chapter is intended to grant immunity from any criminal prosecution under state or federal law. This chapter does not protect patients, caregivers, or the owners of properties on which a marihuana commercial operation is conducted from prosecution or having property seized by federal law enforcement authorities.

(2) This chapter is to be construed to protect the public interest over medical marihuana facility interests. The operation of a licensed medical marihuana facility is a revocable privilege and not a right in the City. Nothing in this chapter is to be construed to grant a property right for an individual or business entity to engage, obtain, or have renewed, a City-issued permit to engage in the use, distribution, cultivation, production, possession, transportation or sale of medical marihuana as a commercial enterprise in the City.

(3) Any individual or business entity which engages in the use, distribution, cultivation, production, possession, transportation or sale of medical marihuana as a commercial enterprise in the City either prior to or after the enactment of this chapter without obtaining the required authorization required by this chapter is deemed to be an illegally established use, and is not entitled to legal nonconforming status under this chapter, the City zoning ordinance, or state law.

(4) Nothing in this chapter is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act, and all applicable rules promulgated by the State of Michigan regarding medical marihuana. Strict compliance with any applicable state law or regulation is deemed a

requirement for the issuance or renewal of any permit issued by the City-issued under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or nonrenewal of any permit issued under the terms of this chapter.

(C) *Indemnification of City.*

(1) By accepting a permit issued pursuant to this chapter, the holder waives and releases the City, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marihuana facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(2) By accepting a permit issued pursuant to this chapter, the holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of any claim of diminution of property value by a property owner whose property is located in proximity to a licensed medical marihuana facility, arising out of the operation of a medical marihuana facility or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §1964(c) .

(D) *Reservation of legislative prerogative.*

(1) The City Commission reserves the right to amend or repeal this chapter in any manner, including, but not limited to the complete elimination of any type or number of medical marihuana facilities authorized to operate in the City.

(2) Nothing in this chapter may be held or construed to grant or "grandfather" any medical marihuana facility a vested right, license, permit or privilege to continued operations within the City. (Ord. 749-10-19, passed 10-7-19)

§ 116.03 DEFINITIONS.

Unless the context requires a different meaning, any term used in this chapter that is defined by the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, or the Administrative Rules promulgated by the Michigan Department of Licensing and Regulatory Affairs addressing medical marihuana shall have the definition given in those Acts and Rules.

APPLICANT. A person who applies for a City-issued permit to operate a marihuana facility in accordance with the terms of this chapter and the City Zoning Ordinance. With respect to disclosures in an application and for purposes of ineligibility for a permit, the term **APPLICANT** includes a managerial employee of the applicant, any person who holds any direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(1) For an individual or sole proprietorship: the proprietor and spouse.

(2) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the partnership, and their spouses. For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the company, and their spouses.

(3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(4) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

DEPARTMENT. The Michigan Department of Licensing and Regulatory Affairs, or its successor agency.

GROWER. A licensee that is a commercial entity that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.

INDUSTRIAL HEMP. That term defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT. Public Act 547 of 2014, as may be amended.

LICENSEE. A person holding a state operating license.

MARIHUANA. That term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

MARIHUANA COMMERCIAL OPERATION. Any and all of the following marihuana facilities, whether operated for profit or not for profit:

- (1) A grower;
- (2) A processor;
- (3) A secure transporter;
- (4) A provisioning center;
- (5) A safety compliance facility.

MARIHUANA FACILITY or FACILITY. A location at which a licensee is licensed to operate under the MMFLA and this chapter.

MARIHUANA PLANT. Any plant of the species *Cannabis sativa* L. but does not include industrial hemp.

MARIHUANA-INFUSED PRODUCT. A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

MICHIGAN MEDICAL MARIHUANA ACT or MMMA. 2008 IL 1, MCL 333.26421 et seq., as may be amended.

MICHIGAN MEDICAL MARIHUANA FACILITIES LICENSING ACT or MMFLA. Public Act 281 of 2016, MCL 333.27101 et seq., as may be amended.

OPERATING PERMIT OR PERMIT. The permit issued pursuant to this chapter authorizing the operation of a medical marihuana facility in the City.

PERMITEE. A person who holds a permit issued by the City pursuant to this chapter.

PERSON. An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity and includes persons defined as a **TRUE PARTY OF INTEREST** as that term is used at Section 404 of the MMFLA, MCL 333.27404 and persons defined as having a **BENEFICIAL INTEREST** as that term is used at Section 303(1)(g) of the MMFLA, MCL 333.27303(1)(g).

PROCESSOR. A licensee that is a commercial entity that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center or another processor. A processor is not prohibited from handling, processing, marketing or brokering industrial hemp pursuant to the Industrial Hemp Research and Development Act.

PROVISIONING CENTER. A licensee that is a commercial entity that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. **PROVISIONING CENTER** includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers and includes medical cannabis dispensaries. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the Department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this Chapter.

REGISTERED PRIMARY CAREGIVER or CAREGIVER. A primary caregiver who has been issued a current registry identification card under the MMMA.

REGISTERED QUALIFYING PATIENT or PATIENT. A qualifying patient who has been issued a current registry identification card under the MMMA or a visiting qualifying patient as that term is defined in the MMMA.

RULES. The general administrative rules promulgated and from time to time amended by the Department to implement the MMFLA.

SAFETY COMPLIANCE FACILITY. A licensee that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility. A **SAFETY COMPLIANCE FACILITY** may take or receive industrial hemp for testing pursuant to the Industrial Hemp Research and Development Act.

SECURE TRANSPORTER. A licensee that is a commercial entity that stores marihuana and transports marihuana between marihuana facilities for a fee.

STATE OPERATING LICENSE OR, LICENSE. A license that is issued by the Department under the MMFLA that allows the licensee to operate a marihuana commercial operation, as specified in the license.
(Ord. 749-10-19, passed 10-7-19)

LICENSING OF MEDICAL MARIHUANA FACILITIES

§ 116.10 NUMBER OF PERMITTED FACILITIES.

The maximum number of each type of medical marihuana commercial entity permitted in the City is as follows:

<i>Type of Facility</i>	<i>Number</i>
Grower	no limit
Processor	no limit
Secure transporter	no limit
Provisioning center	no limit
Safety compliance facility	no limit.

(Ord. 749-10-19, passed 10-7-19)

§ 116.11 LICENSE AND ANNUAL FEE REQUIRED; EXCEPTION.

(A) No person shall establish or operate a medical marihuana commercial facility in the City without first having obtained a permit from the City

and a state operating license for each such facility to be operated. Permit and license certificates shall be kept current and publicly displayed within the facility. Failure to maintain or display current state and City certificates shall be a violation of this chapter.

(B) There shall be an annual non-refundable application and permit fee to defray the administrative and enforcement costs associated with medical marihuana facilities located in the City of not more than \$5,000 per licensed facility.

(C) The annual non-refundable fee required under this section shall be due and payable with the application for a permit and upon the application for renewal of any such permit under this chapter. The permit and fee requirements of this chapter apply to all permitted marihuana facilities, whether operated for profit or not for profit.

(D) The permit fee requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any state regulatory agency, or by City ordinance, including, by way of example, applicable fees for site plan review, zoning review or inspections.

(E) The issuance of any permit pursuant to this chapter does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law.

(F) A separate permit shall be required for each premises on which a medical marihuana facility is operated. Operation of a grower and processor facility at the same location is authorized provided that each facility is separately licensed and permitted. Operation of a provisioning center at the same location as a grower or processing facility is not authorized.

(Ord. 749-10-19, passed 10-7-19)

§ 116.12 LOCATION CRITERIA.

(A) No medical marihuana facility shall be eligible to be issued a permit unless at the time of granting the conditional certificate, the location of the proposed facility complies with the locational requirements and separation distances from other uses set forth in the City Zoning Ordinance.

(B) Mobile marihuana facilities and drive-through operations are prohibited.

(C) A licensee shall not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk. A permit issued under this chapter may be transferred to a different location upon receiving written approval from the City Clerk. In order to request approval to transfer the location of a permit, the licensee must make a written request to the City Clerk, indicating the current licensed location and the proposed licensed location. Upon receiving the written request, the City Clerk shall forward a copy of the request to affected service areas and departments of the City to determine whether the proposed location complies with all applicable laws, rules and regulations. No permit transfer will be approved unless the proposed location meets the standards identified in this chapter and the City Zoning Ordinance.

(Ord. 749-10-19, passed 10-7-19)

§ 116.13 GENERAL PERMIT APPLICATION REQUIREMENTS.

(A) A person seeking a permit pursuant to the Medical Marihuana Facilities Licensing Act and the provisions of this chapter shall submit an application in writing to the City Clerk on forms provided by the City. At the time of application, each applicant shall pay a non-refundable application fee to defray the costs incurred by the City for costs associated with the processing of the application. In addition, the applicant shall present a suitable copy of government-issued photographic identification with the application.

(B) The applicant shall provide the following information, under the penalty of perjury, on the City-issued form approved by or acceptable to, the City Clerk and Director of Public Safety. Such information is required for the applicant, the proposed manager of the marihuana facility, and all persons who are true parties of interest in the marihuana facility that is the subject of the application:

(1) If the applicant is an individual or sole proprietorship, the proprietor and their spouse, if any, shall provide their name, address, date of birth, business address, business telephone number, email address, social security number, and, if applicable, federal tax identification number;

(2) If the applicant is not an individual or sole proprietorship, information regarding the business entity, including, without limitation, the name and address of the entity, website address, (if any), type of business organization, proof of registration with, or a certificate of good standing from the State of Michigan, and the names, dates of birth, addresses, email addresses, phone numbers of each true party of interest, and the federal tax identification number of the business entity;

(3) The identity of every person having any ownership interest in the applicant with respect to which the license is sought;

(4) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a marihuana facility;

(5) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises;

(6) A description of the type of the proposed marihuana commercial operation and its physical address;

(7) A scaled diagram of the proposed licensed premises, no larger than 11 inches by 17 inches, showing, without limitation, building floor plan and layout, all entryways, doorways, or passage ways, and means of public entry and exits to the proposed licensed premises, loading zones, available onsite parking spaces, fencing on or around the premises, and all areas in which medical marihuana will be stored, grown, manufactured or dispensed;

(8) A lighting plan showing the lighting outside of the medical marihuana facility for security purposes in compliance with applicable City outdoor lighting requirements;

(9) A staffing plan which describes the anticipated or actual number of employees, including an estimate of the number and type of jobs that the facility is expected to create, the amount and type of compensation, including benefits, expected to be paid for the jobs;

(10) An explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents to be achieved by the

facility, including plans for community outreach and education plans, worker training programs, through the grant of a medical marihuana facility license;

(11) A statement that neither the applicant nor any true party of interest is in default to the City for any property tax, special assessment, utility charge, fines, fees or other financial obligation owed to the City;

(12) A statement that the applicant has reviewed and agrees to conform its hiring and public accommodation practices to the state and federal anti-discrimination laws;

(13) A statement that neither the applicant nor any true party of interest is ineligible from holding a license for any of the reasons set forth in the MMFLA, MCL 333.27402;

(14) A statement that the applicant consents to inspections, examinations, searches and seizures required or undertaken pursuant to enforcement of this chapter; and

(15) Any additional information that the City Clerk or Director of Public Safety reasonably determines necessary in connection with the investigation and review of the application.

(C) Upon receipt of a completed application, the City Clerk may circulate the application to all affected service areas and departments of the City to determine whether the application is in full compliance with all applicable laws, rules and regulations.

(D) If the City Clerk identifies or is informed of a deficiency in an application, the applicant shall have one period of five business days to correct the deficiency after notification by the City Clerk. (Ord. 749-10-19, passed 10-7-19)

§ 116.14 DENIAL OF APPLICATION.

(A) The City Clerk shall reject any application that does not meet the requirements of the MMFLA, the Rules, or this chapter. The City Clerk shall reject any application that contains any false, misleading or incomplete information.

(B) An applicant whose application is rejected or denied because of missing, incomplete, erroneous, false, or misleading information, or

because of a lack of submission of the full amount of the fees due, does not have a right to appeal the decision.

(Ord. 749-10-19, passed 10-7-19)

§ 116.15 ISSUANCE OF PROVISIONAL APPROVAL CERTIFICATE.

(A) Within 45 days following the adoption of this chapter the City Clerk shall accept permit applications for licensed medical marihuana facilities. Initial applications following the adoption of this chapter for grower, processor, secure transporter, safety compliance and provisioning center facilities whose inspection, background checks, and all other information available to the City verify that the applicant has submitted a full and complete application, has made or has secured permits for making improvements to the business location consistent with the type of facility sought to be permitted, complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, will be reviewed by the office of the City Clerk for completeness and compliance with the requirements of this chapter. The City Clerk shall issue a provisional medical marihuana facility approval certificate to each applicant whose application is complete and in compliance with the provisions of this chapter and applicable state regulations.

(B) Complete applications for a marihuana facility operating permit determined to be in full compliance with the requirements of this chapter shall be issued a provisional medical marihuana facility approval certificate.

(C) The City Clerk shall issue a provisional medical marihuana facility approval certificate if the inspection, background checks, and all other information available to the City verify that the applicant as a grower, processor, safety compliance facility, secure transporter has submitted a full and complete permit application, complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, all in compliance with the City Code of Ordinances and any other applicable law, rule, or regulation.

(D) A provisional medical marihuana facility approval certificate only means that the applicant has submitted a valid application for a marihuana facility operating permit, and is eligible to receive the appropriate marihuana facility license from the

Department. The applicant shall not locate or operate a marihuana facility in the City without obtaining a state operating license approved by and issued by the Department. A provisional certificate issued by the City will expire and be void after one year, or on the date that State approval is denied by a final order to the applicant, whichever first occurs.

(E) Within 30 days from the issuance of a provisional medical marihuana facility approval certificate by the City Clerk, the applicant must submit proof to the City Clerk that the applicant has submitted a partial application with the Department for prequalification for a state operating license or has submitted a full application for such license. If the applicant fails to submit such proof, then the provisional approval shall be cancelled by the City Clerk.

(F) If a provisionally approved applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then the provisional approval shall be cancelled by the City Clerk.

(G) Provisional certificates are not transferable to another person or entity.

(Ord. 749-10-19, passed 10-7-19)

§ 116.16 ISSUANCE OF CITY MARIHUANA FACILITY OPERATING PERMIT.

(A) An applicant holding an unexpired provisional certificate issued pursuant to this chapter and for which a marihuana facility state operating license has been issued shall provide proof of same to the City Clerk.

(B) An inspection of the proposed medical marihuana facility by the City shall be required prior to issuance of the City operating permit. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any medical marihuana, and prior to the opening of the business or commencement of operations. The inspection is to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of this chapter and any other applicable law, rule, or regulation.

(C) After verification that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of this chapter and any other applicable

law, rule, or regulation, and the issuance of a permanent certificate of occupancy for the facility, the City Clerk shall issue a City medical marihuana operating permit for a term of one year. The City-issued permit shall be displayed prominently within the facility.

(D) Maintaining a valid marihuana facility license issued by the state is a condition for the issuance and maintenance of the City marihuana facility operating permit issued under this chapter and the continued operation of any medical marihuana facility.

(E) *Proof of insurance.*

(1) A permittee shall at all times maintain full force and effect for duration of the permit, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate limit issued from a company licensed to do business in Michigan having an AM Best rating of at least B+++. A permittee shall provide proof of insurance to the City Clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. The policy shall name the City of Big Rapids and its officials and employees as additional insureds to the limits required by this section. A permittee or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. The permittee shall obtain and submit proof of substitute insurance to the City Clerk within five business days in the event of expiration or cancellation of coverage.

(2) A secure transporter shall provide proof of no-fault automobile insurance with a company licensed to do business in Michigan with limits of liability not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage, vehicle registration, and registration as a commercial motor vehicle for all vehicles used to transport marihuana or marihuana-infused product.

(3) Any failure to maintain or lapse in the insurance coverage required by this chapter will be grounds for revocation of the City-issued operating permit.

(F) A condition of the issuance of a medical marihuana operating permit includes, at a minimum, operation of the business in compliance with all of the plans and the information provided to the City as part of the application. A permittee must update any change in the information provided to the City as part of the application within five business days of such change during the term of the permit. The failure to timely update a change in information will be grounds for suspension or revocation of the operating permit.

(Ord. 749-10-19, passed 10-7-19)

§ 116.17 PERMIT FORFEITURE.

In the event that a medical marihuana facility does not commence and maintain operations within one year of issuance of a City operating permit, the permit shall be deemed forfeited; the business may not recommence operations and the permit is not eligible for renewal.

(Ord. 749-10-19, passed 10-7-19)

§ 116.18 PERMIT RENEWAL.

(A) A valid marihuana facility operating permit may be renewed on an annual basis by a renewal application upon a form provided by the City and payment of the annual application and permit fee. An application to renew a marihuana facility operating permit shall be filed no sooner than 90 days and at least 60 days prior to the date of its expiration. The failure to timely file for renewal is sufficient grounds to deny renewal of a permit to operate a medical marihuana facility in the City and is not subject to appeal.

(B) Prior to the issuance of a renewed marihuana facility permit by the City, the premises shall be inspected to assure that site and operations are in compliance with the requirements of this chapter.

(C) In determining whether to grant a renewal of a permit, the City Clerk or City Manager will evaluate the permit holder's compliance with the statements provided with its initial application and submission with its request for renewal of the following information:

(1) The facility's staffing plan which describes the actual number of employees, including

the number and type of jobs that the facility has created, and the amount and type of compensation (including benefits) paid for such jobs;

(2) An explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents achieved by the facility, results of efforts for community outreach, education plans, and worker training programs;

(3) A statement that the facility is not in default to the City for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the City;

(4) A statement that the hiring and public accommodation practices of the facility conform to state and federal anti-discrimination laws.

(D) If a licensee demonstrates compliance with the requirements for renewal of an operating permit, the City Clerk shall renew the existing permit for a period of one year, on the condition that the state operating license for the facility is renewed. (Ord. 749-10-19, passed 10-7-19)

§ 116.19 TRANSFER OF PERMIT.

(A) A medical marihuana business permit is valid only for the owner named thereon, the type of business disclosed on the application for the permit, and the location for which the permit is issued.

(B) Each operating permit is exclusive to the permittee and a permittee or any other person must submit an application for a permit with the City Clerk before a permit is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest in a permit without prior application for a City operating permit with the City Clerk is grounds for suspension or revocation of the existing permit. (Ord. 749-10-19, passed 10-7-19)

§ 116.20 PERMIT AS REVOCABLE PRIVILEGE.

An operating permit granted by this chapter is a revocable privilege granted by the City and is not a property right. Granting a permit does not create or vest any right, title, franchise, or other property interest. (Ord. 749-10-19, passed 10-7-19)

§ 116.21 NONRENEWAL, SUSPENSION OR REVOCATION OF PERMIT.

(A) The City may, after notice and hearing, suspend, revoke or refuse to renew a permit for any of the following reasons:

(1) The permit holder, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with, any of the terms, requirements, conditions or provisions of this chapter or with any applicable state or local law or regulation;

(2) The permit holder, or its agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license;

(3) The marihuana commercial entity has been operated in a manner that adversely affects the local public health, safety or welfare; or

(4) The permit holder failed to timely submit all necessary documents and or fees to renew the City-issued permit or state operating license.

(B) Evidence to support a finding under this section may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises of the marihuana facility or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the marihuana facility, or an ongoing nuisance condition emanating from or caused by the marihuana facility. Criminal conduct is limited to the violation of a state law or regulation or city ordinance.

(C) Except as otherwise provided in this chapter, the Planning Commission shall hear and decide questions that arise in the administration of this chapter, including appeals of suspension and revocations of City operating permits. The concurring vote of a majority of the members of the Planning Commission is necessary to reverse an order, requirement, decision, or determination of an administrative official in the application of this chapter. The decision of the Planning Commission is

final. This section is not to be construed to grant the Planning Commission authority to hear any matter that is within the powers and duties of the Zoning Board of Appeals.

(Ord. 749-10-19, passed 10-7-19)

SPECIFIC MARIHUANA FACILITY REQUIREMENTS

§ 116.30 GROWER CLASSES.

A grower may hold more than one class of a state operating grower license, if allowed by the state at a single location.

(Ord. 749-10-19, passed 10-7-19)

§ 116.31 SEPARATION OF LICENSED PREMISES.

A grower facility and processor facility in the same location are separate medical marihuana commercial operations requiring separate licenses and separate permits. In addition to all other application requirements for separate facilities, each business, if sharing a building or structure, shall be distinctly partitioned from each other from floor to roof, have separate operations, ventilation, security and fire suppression systems, and separate entrances and exits.

(Ord. 749-10-19, passed 10-7-19)

§ 116.32 SECURE TRANSPORTER.

(A) A secure transporter which operates from a marihuana facility located within the City shall secure a permit from the City. A state-licensed secure transporter which does not have a facility located in the City, may, without securing a license from the City, operate on public streets and highways within the City.

(B) Each vehicle engaged in the transportation of marihuana or marihuana-infused products must always be operated by a two-person crew with at least one individual remaining with the vehicle.

(C) A secure transporting vehicle must not bear any markings or other indication that it is carrying marihuana or marihuana-infused products.

(Ord. 749-10-19, passed 10-7-19)

§ 116.33 PROVISIONING CENTERS.

(A) The licensee, manager, operator and employees of a provisioning center shall strictly comply with all rules addressing security (including but not limited to an operating video surveillance system), storage of marihuana and marihuana-infused products to prevent direct customer access and use of a separate room as a point of sale area.

(B) It is unlawful for the licensee, manager, operator or employees of a provisioning center to:

(1) Permit the sale, consumption, or use of alcoholic beverages or tobacco products on the licensed premises or the consumption or service of food on the licensed premises;

(2) Sell, give, dispense or otherwise distribute medical marihuana, marihuana-infused products, or medical marihuana paraphernalia from any outdoor location;

(3) Offer or distribute samples of marihuana or marihuana-infused products to a consumer free of charge;

(4) Permit the use or consumption of marihuana or marihuana-infused products on the licensed premises;

(5) Operate a licensed provisioning center at any time other than between the hours of 9:00 a.m. and 9:00 p.m. daily;

(6) Keep or grow marihuana plants within the provisioning center.

(C) Registered patients and registered primary caregivers with valid registry cards are permitted in a dedicated point of sale area; a separate waiting area may be created for visitors not authorized to enter the marihuana facility. Provisioning centers shall be wheelchair accessible and disability accommodations shall be provided to caregivers or patients upon request.

(D) A provisioning center may engage in the home delivery of marihuana and marihuana-infused products to registered qualifying patients at the patient's home address in strict compliance with Department approved procedures and rules.

(E) A provisioning center may engage in the sale of industrial hemp to a registered qualifying patient in compliance with the standards, procedures, and requirements promulgated by the Department (Ord. 749-10-19, passed 10-7-19)

GENERAL REQUIREMENTS**§ 116.40 COMPLIANCE WITH RULES; INSPECTIONS.**

(A) A permit holder shall strictly comply with the rules that may from time to time be promulgated by the Department.

(B) All marihuana commercial operations shall obtain all other required permits or licenses related to the operation of the marihuana facility, including, without limitation, any zoning approvals or building permits required by any applicable code or ordinance.

(C) The failure by a permit holder to comply with Department rules or the provisions of this chapter is a violation of this chapter and any infraction or violation is a sufficient basis for suspension and revocation of a permit issued under this chapter.

(Ord. 749-10-19, passed 10-7-19)

§ 116.41 SIGNAGE AND ADVERTISING.

(A) All signage and advertising for a medical marihuana facility shall comply with all applicable provisions of this Code and the City Zoning Ordinance. In addition, it shall be unlawful for any licensee to:

(1) Use advertising material that is misleading, deceptive or false or that is designed to appeal to minors aged 17 or younger;

(2) Advertise in a manner that is inconsistent with the medicinal use of marihuana and marihuana-infused products or use advertisements that promote medical marihuana or marihuana-infused products for recreational or any use other than for medicinal purposes by patients and caregivers.

(B) Only one sign per street frontage, which complies with the size restrictions set forth in the City Zoning Ordinance, is permitted for a provisioning center or safety compliance center. Neon, gas lighted, and flashing signs are prohibited.

(Ord. 749-10-19, passed 10-7-19)

§ 116.42 SECURITY REQUIREMENTS.

(A) Security measures at all licensed premises shall comply with the requirements of all applicable rules and regulations promulgated by the Department.

(B) Prior to commencing operations, a description of the security plan for the facility shall be submitted to the Department of Public Safety. The security plan shall include details of a video surveillance system to be employed at the facility and procedures that meet or exceed applicable state rules addressing security.

(C) The security system, shall be maintained in good working order and provide continuous 24 hours per day recorded coverage. A separate security system is required for each facility. Permit holders shall at all times maintain a security system that meets state law requirements, and shall include:

(1) Security surveillance installed to monitor all entrances, along with the interior and exterior of the permitted premises and all safes or containers in which cash or marihuana is stored;

(2) Burglary alarm systems which are monitored and operated 24 hours a day, seven days a week;

(3) A locking safe permanently affixed to the permitted premises that shall store all marihuana and cash remaining at the facility overnight;

(4) All marihuana in whatever form stored at the permitted premises shall be kept in a secure manner and shall not be visible from outside the permitted premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the permitted premises;

(5) All security recordings and documentation shall be preserved for at least 30 days by the permit holder and made available to law enforcement upon request for inspection.

(Ord. 749-10-19, passed 10-7-19)

§ 116.43 FIRE SUPPRESSION; HAZARDOUS MATERIALS.

(A) A facility shall have installed a fire suppression system and fire alarm system for the

facility which meets the requirements imposed by applicable law. Unless a higher standard is required by applicable law or regulation, there must be a minimum of a one-hour fire separation between a medical marihuana business and any adjacent business.

(B) A description of all toxic, flammable, or other materials, including all chemical compounds and pesticides used for cultivation, processing or testing of marihuana that will be used or kept at the facility, specifying the location of such materials on the premises, and how such materials will be stored and disposed of shall be filed with the Department of Public Safety prior to the facility commencing operations.

(Ord. 749-10-19, passed 10-7-19)

§ 116.44 WASTE MANAGEMENT.

(A) A facility shall institute and employ a waste management protocol and practices that comply with applicable rules and regulations that includes a plan for disposal of any medical marihuana or medical marihuana-infused product that is not sold to a patient or primary caregiver.

(B) As determined by the Wastewater Superintendent, wastewater generated from the cultivation or processing of marihuana or marihuana-infused products may require pre-treatment before introduction in the City wastewater system.

(Ord. 749-10-19, passed 10-7-19)

§ 116.45 VISIBILITY OF ACTIVITIES.

(A) All activities of marihuana commercial operations shall be conducted indoors and out of public view, except cultivation may occur in an outdoor area provided that the area is contiguous with the facility building, fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view, with no marihuana plants growing above the height of the fence or barrier and the fences are secured and only accessible to authorized persons and emergency personnel .

(B) No medical marihuana, marihuana-infused product, or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

(Ord. 749-10-19, passed 10-7-19)

§ 116.46 ODOR CONTROL.

(A) Growers, processors, and safety compliance facilities are required to install and maintain in operable condition an appropriate exhaust ventilation system which precludes the emission of detectable marihuana odor resulting from any grow or production process or operations from the premises. Exhaust and ventilation equipment must be installed, operated, and maintained in compliance with the Michigan Mechanical Code.

(B) No medical marihuana facility shall permit the emission of marihuana odor resulting in detectable odors that leave the facility premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

(Ord. 749-10-19, passed 10-7-19)

§ 116.47 REPORTS OF CRIME.

All criminal activities or attempted violations of any law at the medical marihuana facility shall be reported promptly to the Department of Public Safety within 24 hours of occurrence, or its discovery, whichever is sooner. The failure to timely report criminal activity is a violation of this chapter and may result in sanctions up to and including the suspension, revocation or non-renewal of the facility's City operating permit.

(Ord. 749-10-19, passed 10-7-19)

§ 116.48 INSPECTION OF LICENSED PREMISES.

(A) During all business hours and other times when the premises are occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by Department of Public Safety and all other City departments for the purpose of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations.

(B) *Consent to inspection.* Application for a medical marihuana business license or operation of a medical marihuana business, or leasing property to

a medical marihuana business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the City staff to conduct routine examinations and inspections of the medical marihuana business to ensure compliance with this chapter or any other applicable law, rule, or regulation. For purposes of this chapter, examinations and inspections of medical marihuana businesses and recordings from security cameras in such businesses are part of the routine policy of enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the medical marihuana business, and the adjoining properties and neighborhood.

(C) Application for a medical marihuana business permit constitutes consent to the examination and inspection of the business without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a medical marihuana permit without a search warrant.

(D) A medical marihuana facility permittee or an employee or agent of the permittee, shall not threaten, hinder or obstruct a law enforcement officer or a City Inspector or investigator in the course of making an examination or inspection of the marihuana facility and premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this chapter, the MMFLA, or applicable state administrative rules.
(Ord. 749-10-19, passed 10-7-19)

§ 116.49 OTHER LAWS REMAIN APPLICABLE.

To the extent the state adopts any additional or stricter law or regulation governing the sale or distribution of medical marihuana, the additional or stricter regulation shall control the establishment or operation of any marihuana commercial entity in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any permit under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any permit issued hereunder.

(Ord. 749-10-19, passed 10-7-19)

§ 116.50 GRANT OF ADMINISTRATIVE AUTHORITY.

The City Clerk and City Manager are granted the power and duty to fully and effectively implement and administer the permit application process and issuance of provisional approval certificates and operating permits issued by the City under this chapter.

(Ord. 749-10-19, passed 10-7-19)

MARIHUANA BUSINESS ESTABLISHMENTS

§ 116.60 AUTHORIZED MARIHUANA ESTABLISHMENTS.

The following marihuana establishments authorized by the Voter Initiated Law 1 of 2018 are authorized to operate within the City according to state law and local ordinance regulations with a City permit and a state license.

<i>Type of Establishment</i>	<i>Number Authorized</i>
Marihuana grower	Unlimited
Excess marihuana grower	Unlimited
Marihuana processor	Unlimited
Marihuana microbusiness	Unlimited
Marihuana retailer	Unlimited
Marihuana safety compliance facility	Unlimited
Marihuana secure transporter	Unlimited

(Ord. 751-10-19, passed 10-7-19)

§ 116.61 PROHIBITED MARIHUANA ESTABLISHMENTS.

The following marihuana establishments authorized by the Voter Initiated Law 1 of 2018 are prohibited from operating within the City.

<i>Type of Establishment</i>	<i>Number Authorized</i>
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Designated marihuana consumption establishment	None
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Marihuana event organizer	None
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Any other type of marihuana related business licensed by the Department (Ord. 751-10-19, passed 10-7-19)	None
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\$1,000, plus court-imposed costs and any other relief that may be imposed by the court for a subsequent violation committed within one year of any previous offense.

(B) In addition to any civil fine imposed for a municipal civil infraction violation, a violation of this chapter, shall also be sufficient grounds the suspension, revocation or non-renewal of the facility's City operating permit.

(C) In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, the City Attorney is authorized to seek such other relief that may be available and provided by law or equity, including filing a public nuisance action or seeking injunctive relief against a person alleged to be in violation of this chapter or the City Zoning Ordinance.
(Ord. 749-10-19, passed 10-7-19)

§ 116.62 PERMITS, APPLICATIONS AND FEES.

No person or other legal entity can operate a marihuana business establishment authorized by the voter Initiated Law 1 of 2018 in the City without a permit issued by the City Clerk, an appropriate license issued by the state, zoning clearance, approval, or special use permit, and compliance with all applicable local zoning and regulatory ordinance provisions. The procedure for obtaining a City permit for an authorized marihuana establishment listed in § 116.60 shall be the same as the procedure for obtaining a City permit for an authorized medical marihuana facility set forth in this chapter.
(Ord. 751-10-19, passed 10-7-19)

§ 116.63 REGULATION.

The local regulations for a marihuana business establishment authorized by the voter Initiated Law 1 of 2018 are the same as the regulations for an authorized medical marihuana facility set forth in this chapter.
(Ord. 751-10-19, passed 10-7-19)

§ 116.99 PENALTY.

(A) Any person, including, but not limited to, any licensee, manager or employee of a marihuana commercial operation, or any customer of such business, who violates any of the provisions of this chapter, shall be responsible for a municipal civil infraction punishable by a civil fine of \$500, plus court-imposed costs and any other relief that may be imposed by the court for the first violation; and

CHAPTER 117: [RESERVED]

CHAPTER 118: [RESERVED]

CHAPTER 119: CIRCUSES, CARNIVALS, SHOWS AND EXHIBITIONS

Section

- 119.01 Show license
- 119.02 Circus, carnival, exhibition defined
- 119.03 Animal shows and exhibitions
- 119.04 Investigation
- 119.05 Right of entry
- 119.06 Order to cease operations
- 119.07 Insurance or bond
- 119.08 Hours of operations
- 119.09 Bond required and forfeiture of bond
- 119.10 Fees

§ 119.01 SHOW LICENSE.

No person shall advertise, sponsor, organize, conduct, or operate a circus, carnival, menagerie, exhibition, or show without first obtaining a license from the City Clerk's Office and paying the required fee.

(Ord. 615-11-09, passed 11-2-09)

§ 119.02 CIRCUS, CARNIVAL, EXHIBITION DEFINED.

As used in this chapter, **CIRCUS, CARNIVAL, MENAGERIE** or **EXHIBITION** means any amusement enterprise which is operated other than in a permanent building or structure, wherein, as part of the amusement attractions, Ferris wheels, merry-go-rounds, or other similar or like mechanically operated devices are used, or where sideshows, concessions, games of skill or chance, animal exhibits or other similar or like amusements or entertainment features are provided.

(Ord. 615-11-09, passed 11-2-09)

§ 119.03 ANIMAL SHOWS AND EXHIBITIONS.

(A) No person shall conduct any dog or pony show or menagerie, without first obtaining a license therefore. Such license shall be known as an "Animal Show License." No person shall conduct any panorama, exhibition of statuary or painting, or any other exhibition, not otherwise licensed under this

chapter, and for which an admission fee is charged, without first obtaining a license, therefor, to be known as an "Exhibition License."

(B) The provisions of this section shall not be applicable to any fair held under the direct management and supervision of any recognized agricultural association or society, nonprofit association or corporation, at which are exhibited agricultural or industrial products, principally.
(Ord. 615-11-09, passed 11-2-09)

§ 119.04 INVESTIGATION.

(A) The City Clerk shall forward a copy of the application to the Director of Public Safety.

(B) The Director of Public Safety shall investigate the qualifications and background of the applicant and furnish a written report to the City Clerk accompanied by a recommendation as to whether the license should be granted or refused. As part of the investigation, the Director of Public Safety shall determine whether or not the applicant has been convicted of any crime involving moral turpitude, gambling, narcotics, sexual offense or has previously violated any of the provisions of this section.

(C) The Fire Marshal shall inspect the location to determine whether the proposed location is free from fire hazards and either approve or disapprove the application.

(Ord. 615-11-09, passed 11-2-09)

§ 119.05 RIGHT OF ENTRY.

The operator or person in charge of any circuses, carnivals, shows, and exhibitions shall, at all times, open each and every portion of their operations for inspection by the Police Division, Fire Division or any other City department engaged in the enforcement of this chapter or in the carrying on of any inspection for such purpose.

(Ord. 615-11-09, passed 11-2-09)

§ 119.06 ORDER TO CEASE OPERATIONS.

The Director of Public Safety shall close down the operation of any circus, carnival, menagerie, exhibition, or show upon the revocation of the license to operate or in the event of a serious mishap pending inspection by the appropriate agency. (Ord. 615-11-09, passed 11-2-09)

§ 119.07 INSURANCE OR BOND.

A person shall not operate a circus or carnival unless the owner or operator shall have obtained security against the owner's or operator's liability for injuries suffered by persons attending the carnival or riding amusement rides by one of the following methods:

(A) By obtaining a policy of insurance in an amount not less than \$1,000,000 insuring the owner or operator against liability for injuries suffered by persons attending the carnival or an amusement ride;

(B) By obtaining a bond in an amount not less than \$1,000,000 with the aggregate amount of the surety and the bond not exceeding the face amount of the bond;

(C) The liability limits of subsections (a) and (b) of this section may be reduced to \$50,000 if there is only one amusement ride, which is designed primarily for use by small children. (Ord. 615-11-09, passed 11-2-09)

§ 119.08 HOURS OF OPERATIONS.

No person shall hold or operate circuses, carnivals, shows, menagerie, or exhibitions between the hours of 11:00 p.m. and 8:00 a.m. (Ord. 615-11-09, passed 11-2-09)

§ 119.09 BOND REQUIRED AND FORFEITURE OF BOND.

No license shall be issued until a cash bond is posted in an amount established in § 110.18, to ensure that the licensee will comply with all of the laws of the state and the ordinances of the City in connection with the operation of the activity, and that the licensee shall cease operation on or before the expiration of the license and shall remove all equipment, paraphernalia, debris, advertisements and litter which are attributable to the activity or its

concessionaries. The bond posted by an applicant under this article shall be forfeited if the applicant has not restored to its prior condition the area as affected by the activity for which the bond was posted, including the site, roads and road rights-of-way and surrounding areas, both public and private, three days from the conclusion of the licensed activity or from expiration of the license, whichever comes first. (Ord. 615-11-09, passed 11-2-09)

§ 119.10 FEES.

When an application is made for a license required under the terms of this chapter, a fee shall be paid in an amount established under Chapter 110, § 110.18 of the Code of Ordinances. (Ord. 615-11-09, passed 11-2-09)

CHAPTER 120: [RESERVED]

CHAPTER 121: [RESERVED]

[Text continues on Page 40]

CHAPTER 122: ADULT ENTERTAINMENT ESTABLISHMENTS

Section

- 122.01 Definitions
- 122.02 Licenses
- 122.03 Application for license
- 122.04 Standards for issuance of license
- 122.05 Fee
- 122.06 Display of license or permit
- 122.07 Renewal of license or permit
- 122.08 Revocation or suspension of license
- 122.09 Physical layout of adult entertainment establishment
- 122.10 Responsibilities of the operator
- 122.99 Penalty

emphasis on the depiction or description of specified anatomical areas or specified sexual devices.

MASSAGE PARLOR. An establishment or place which is primarily in the business of providing massage services and which is not a myotherapy establishment regulated by Chapter 121 of this Code of Ordinances.

SPECIFIED ANATOMICAL AREAS. Specified anatomical areas means and includes any one or more of the following:

(1) Less than completely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or

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

SPECIFIED SEXUAL ACTIVITIES. Includes any one or more of the following:

(1) The fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Human sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, and sodomy;

(3) Human masturbation, actual or simulated;

(4) Human excretory functions as part of or as related to any of the activities described above; and

(5) Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to any of the activities described above.

SUBSTANTIAL PORTION. A use or activity accounting for more than 20% of any one or more of the following: stock-in-trade, display space, floor

§ 122.01 DEFINITIONS.

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

ADULT BOOKSTORE. An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, movies, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas;

(2) Instruments, devices, or paraphernalia designed for use as part of or in connection with specified sexual activities.

ADULT MOTION PICTURE THEATER. An establishment, where, for any form of consideration, films, motion pictures, videos, slides, or other photographic reproductions are shown and in which a substantial portion of the total presentation is devoted to the showing of material characterized by an

space, or viewing time, movie display time, or entertainment time measured per month.
(Ord. 413-12-96, passed 12-16-96)

§ 122.02 LICENSES.

(A) *Requirement.* From and after the effective date of this chapter, no adult bookstore, adult motion picture theater or massage parlor, hereinafter referred to as adult entertainment establishments, shall be operated or maintained in the City without first obtaining a license to operate issued by the City.

(B) *Limitation.* A license may be issued only for one adult entertainment establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult entertainment establishment must have a license for each.

(C) *Nontransferability.* No license or interest in a license may be transferred to any person, partnership, or corporation.

(D) *Exclusions.* All private schools and public schools located within the City are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum or when instructing students at Ferris State University as part of its curriculum.
(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

§ 122.03 APPLICATION FOR LICENSE.

(A) Any person, partnership, or corporation desiring to secure a license shall make application to the City Clerk. The application shall be dated by the City Clerk. A copy of the application shall be distributed promptly by the City Clerk to the Department of Public Safety and to the applicant.

(B) The application for a license shall be upon a form provided by the City Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers and directors of a corporate applicant and all stockholders including more than 5% of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

(1) Name and address, including all aliases.

(2) Date of birth.

(3) Social security number.

(4) Michigan vehicle operator's license number.

(5) Written proof that the individual is at least 18 years of age.

(6) All residential addresses of the applicant for the past three years.

(7) The applicant's height, weight, color of eyes and hair.

(8) The business, occupation, or employment of the applicant for five years immediately preceding the date of application.

(9) Whether the applicant previously operated in this or any other county, city, or state under an adult entertainment establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(10) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond, or pleadings of nolo contendere on all crime charges, except minor traffic violations.

(11) Fingerprints and two portrait photographs at least two inches by two inches of the applicant.

(12) The address of the adult entertainment establishment to be operated by the applicant.

(13) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and the name and address of all shareholders owning more than 5% of the stock in said corporation and all officers and directors of the corporation.

(C) Within 21 days of receiving an application for a license the City Clerk shall notify the applicant whether application is granted or denied.

(D) Whenever an application is denied, the City Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held within 30 days thereafter before the Commission, as hereinafter provided.

(E) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Clerk.
(Ord. 413-12-96, passed 12-16-96)

§ 122.04 STANDARDS FOR ISSUANCE OF LICENSE.

(A) To receive a license to operate an adult entertainment establishment, an applicant must meet the following standards:

(1) If the applicant is an individual:

(a) The applicant shall be at least 18 years of age.

(b) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

(c) The applicant shall not have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(2) If the applicant is a corporation:

(a) All officers, directors, and stockholders required to be named under § 122.03(B) shall be at least 18 years of age.

(b) No officer, director, or stockholder

required to be named under § 122.03(B) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

(c) No officer, director, or stockholder required to be named under § 122.03(B) shall have been found to have previously violated this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(3) If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest:

(a) All persons having a financial interest in the partnership, joint venture, or other type of organization shall be at least 18 years of age.

(b) No person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.

(c) No person having a financial interest in the partnership, joint venture, or other type of organization shall have been found to have violated any provision of this chapter or a substantially similar ordinance within five years immediately preceding the date of the application.

(B) No license shall be issued unless the City Department of Public Safety has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the City Clerk no later than 14 days after the date of the application.
(Ord. 413-12-96, passed 12-16-96)

§ 122.05 FEE.

A license fee of \$250 shall be submitted with the application for a license. If the application is denied, one-half of the fee shall be returned.
(Ord. 413-12-96, passed 12-16-96)

§ 122.06 DISPLAY OF LICENSE OR PERMIT.

The license shall be displayed in a conspicuous public place in the adult entertainment establishment.

(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

§ 122.07 RENEWAL OF LICENSE OR PERMIT.

(A) Every license issued pursuant to this chapter will terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Clerk. A copy of the application for renewal shall be distributed promptly by the City Clerk to the City Department of Public Safety and to the business operator. The application for renewal shall be upon a form provided by the City Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(B) A license renewal fee of \$250 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100 shall be assessed against the applicant who files for a renewal less than 60 days before the license expires. If the application is denied, one-half of the total fees collected shall be returned.

(C) If the City Department of Public Safety is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Clerk.

(Ord. 413-12-96, passed 12-16-96)

§ 122.08 REVOCATION OR SUSPENSION OF LICENSE.

(A) The City Commission can revoke or suspend a license or permit for any of the following reasons:

(1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

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(2) The operator or any employee of the operator has violated any provision of this chapter or any rule or regulation adopted by the City Commission pursuant to this chapter, provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the Commission shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(3) The operator becomes ineligible to obtain a license or permit or the operator is convicted of or pleads nolo contendere to any felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature.

(4) Any cost or fee required to be paid by this chapter is not paid.

(5) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult entertainment establishment.

(6) The operator fails to maintain a special use permit for the site as required by the zoning ordinance or fails to comply with conditions of the special use permit.

(B) The Commission, before revoking or suspending any license or permit, shall give the operator at least ten day's written notice of the charges against the operator and the opportunity for a public hearing before the City Commission, as hereinafter provided:

(1) Before the City Commission revokes or suspends a license issued herein, the City Commission shall cause written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application, informing such person of the right to a hearing upon request.

(2) If the licensee does not request a hearing within 14 days of the date the notice was sent, the license may be forthwith revoked or suspended. If the licensee requests a hearing before the City Commission regarding the proposed revocation or suspension, the hearing shall be held with 21 days after the date of the written request.

(3) Any license issued by the City may be immediately suspended by the City Manager or duly appointed City official if it is determined that the licensee has violated or someone at or upon the licensed location has violated this chapter or state law and that continued operation under the license is contrary to the public health, safety, and welfare. A licensee shall have the right to a hearing before the City Commission on any license suspension by the City Manager and notice thereof shall be given in accordance with divisions (B)(1) and (2) of this section.

(4) Both the City and the licensee shall be afforded a reasonable opportunity to present evidence on the issue at the hearing. Action taken by the City Commission shall be final and any fees hereunder shall not be refunded to the applicant or licensee.

(C) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(D) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult entertainment establishment for six months from the date of revocation of the license. (Ord. 413-12-96, passed 12-16-96)

§ 122.09 PHYSICAL LAYOUT OF ADULT ENTERTAINMENT ESTABLISHMENT.

Any adult entertainment establishment having available for customers, patrons, or members any booth, room, or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

(A) *Access.* Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult entertainment establishment and shall be unobstructed by any door, lock, or other control-type devices.

(B) *Construction.* Every booth, room or cubicle shall meet with the following construction requirements:

(1) Each booth, room, or cubicle shall be separated from adjacent booths, rooms, and cubicles, and any non-public areas by a wall.

(2) Each booth, room, or cubicle have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.

(3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured, and easily cleanable.

(4) The floor must be light colored, non-absorbent, smooth textured, and easily cleanable.

(5) The lighting level of each booth, room, or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.

(C) *Occupants.* Only one individual shall occupy a booth, room, or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth.

(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

§ 122.10 RESPONSIBILITIES OF THE OPERATOR.

(A) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, date of birth, sex, height, weight, color of hair and eyes, phone numbers, social security numbers, date of employment and termination, and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three years following termination.

(B) Daily hours of operation of any adult entertainment establishment shall be limited to the period of time from 8:00 a.m. to 2:00 a.m.

(C) The operator shall make the register of employees available immediately for inspection by police upon demand of a member of the City Department of Public Safety at all reasonable times.

(D) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any areas where they can be viewed from a public sidewalk adjacent to the establishment.

(E) Any individual viewing booths, entertainment rooms, or similar cubicles designed or used for

individuals to view specified anatomical areas or to view specified sexual activities shall not be completely enclosed from the common areas, hallways, or other areas of the adult entertainment business.

(F) No employee or patron under 18 years of age shall be allowed on the premises of an adult entertainment establishment.

(G) No intoxicating liquor or cereal malt beverage shall be served or consumed on the premises of an adult entertainment establishment.

(H) The operator shall maintain the premises in a clean and sanitary manner at all times.

(I) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator, if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(J) Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended, or renewed.

(K) No employee of an adult entertainment establishment shall allow any minor to loiter around or to frequent an adult entertainment establishment or to allow any minor to view adult entertainment as defined herein.

(L) The operator shall maintain at least ten foot candles of light in the public portions of the establishment, including aisles, at all times measured from the floor. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room, or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, that at no time shall there be less than one foot candle of illumination in the aisles, as measured from the floor.

(M) The operator shall insure compliance of the establishment and its patrons with the provisions of this chapter.

(Ord. 413-12-96, passed 12-16-96) Penalty, see § 122.99

§ 122.99 PENALTY.

(A) *Terms.* Any person convicted under this chapter shall be subject to a maximum penalty of 90 days in jail, or an equal amount of time of community service, or any combination thereof not exceeding 90 days, plus \$500 fine, plus actual costs of prosecution, plus mandatory restitution to victims.

(B) *Continuing violations.* In addition to the penalty provided in division (A) of this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.
(Ord. 413-12-96, passed 12-16-96)

CHAPTER 123: TELECOMMUNICATIONS

Section

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§ 123.01 PURPOSE.

The purposes of this chapter are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act") and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. 499-10-02, passed 10-21-02)

§ 123.02 CONFLICT.

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

(Ord. 499-10-02, passed 10-21-02)

§ 123.03 DEFINITIONS.

(A) The terms used in this chapter shall have the following meanings:

(1) **ACT.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

(2) **CITY.** The City of Big Rapids.

(3) **CITY COMMISSION.** The City Commission of the City of Big Rapids or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the City Commission.

(4) **CITYMANAGER.** The City Manager or his or her designee.

(5) **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.

(B) All other terms used in this chapter shall have the same meaning as defined or as provided in the Act, including without limitation the following:

(1) **AUTHORITY.** The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

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

(3) **PERSON.** An individual, corporation, partnership, association, governmental entity, or any other legal entity.

(4) **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.

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

(6) **TELECOMMUNICATIONS PROVIDER, PROVIDER AND TELECOMMUNICATIONS SERVICES.** Those terms as defined in Section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102. Telecommunications provider does not include a person or an affiliate of that person when providing a federally licensed commercial radio service as defined in Section 332(d) of 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a provider also includes all of the following:

(a) A cable television operator that provides a telecommunications service.

(b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.

(c) A person providing broadband internet transport access service.
(Ord. 499-10-02, passed 10-21-02)

§ 123.04 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

form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the City Manager, and one copy with the City Attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(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, 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(D) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.

(E) *Additional information.* The City Manager may request an applicant to submit such additional information which the City Manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Manager. If the City and the applicant cannot agree on the requirement of additional information requested by the City, the City or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(F) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the City under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the City to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan telecommunications act but after 1985 shall satisfy the permit requirements of this chapter.

(G) *Existing providers.* Pursuant to Section 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 Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit to the City an application for a permit in accordance with the

submitting an application under this subsection is not required to pay the \$500 application fee required under division (D) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act. (Ord. 499-10-02, passed 10-21-02)

§ 123.05 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 Section 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 § 123.04(B) of this chapter for access to a public right-of-way within the City. Pursuant to Section 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 Sections 6(1), 6(2) and 15 of the Act.

(C) *Conditions.* Pursuant to Section 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 Section 15(3) of the Act, and without limitation on 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. 499-10-02, passed 10-21-02)

§ 123.06 CONSTRUCTIVE/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 for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit. (Ord. 499-10-02, passed 10-21-02)

§ 123.07 CONDUIT OR UTILITY POLES.

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this ordinance does not give a telecommunications provider a right to use conduit or utility poles. (Ord. 499-10-02, passed 10-21-02)

§ 123.08 ROUTE MAPS.

Pursuant to Section 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 MPSC determines otherwise, in accordance with Section 6(8) of the Act. (Ord. 499-10-02, passed 10-21-02)

§ 123.09 REPAIR OF DAMAGE.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a 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. 499-10-02, passed 10-21-02)

§ 123.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the City set forth in § 123.04(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 Section 8 of the Act. (Ord. 499-10-02, passed 10-21-02)

§ 123.11 MODIFICATION OF EXISTING FEES.

In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the City also hereby approves modification of the fees of providers with telecommunications facilities in public rights-of-way within the City's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of Section 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 a provider or discovery by the City, shall be promptly refunded as having been charged in error. (Ord. 499-10-02, passed 10-21-02)

§ 123.12 SAVINGS CLAUSE.

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under § 123.11 shall be void from the date the modification was made. (Ord. 499-10-02, passed 10-21-02)

§ 123.13 USE OF FUNDS.

Pursuant to Section 10(4) of the Act, all amounts received by the City from the Authority shall be used by the City solely for 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 Act No. 51 of the Public Acts of 1951. (Ord. 499-10-02, passed 10-21-02)

§ 123.14 ANNUAL REPORT.

Pursuant to Section 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. 499-10-02, passed 10-21-02)

§ 123.15 CABLE TELEVISION OPERATORS.

Pursuant to Section 13(6) of the Act, the City shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services. (Ord. 499-10-02, passed 10-21-02)

§ 123.16 EXISTING RIGHTS.

Pursuant to Section 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. 499-10-02, passed 10-21-02)

§ 123.17 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, 1976 PA 442, MCL 15.231 to 15.246, as provided in Section 4(c) of this chapter;

(B) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 4(f) of this chapter;

(C) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 4(g) of this chapter;

(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 § 123.05(A) of this chapter;

(E) Notifying the MPSC when the City has granted or denied a permit, in accordance with § 123.05(A) of this chapter;

(F) Not unreasonably denying an application for a permit, in accordance with § 123.05(A) of this chapter;

(G) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 123.05(B) of this chapter;

(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 § 123.05(C) of this chapter;

(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 telecommunications provider's access and use, in accordance with § 123.05(D) of this chapter;

(J) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 123.06 of this chapter;

(K) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this chapter, in accordance with § 123.11 of this chapter;

(L) Submitting an annual report to the Authority, in accordance with § 123.14 of this chapter; and

(M) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 123.15 of this chapter.
(Ord. 499-10-02, passed 10-21-02)

§ 123.18 RESERVATION OF POLICE POWERS.

Pursuant to Section 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. 499-10-02, passed 10-21-02)

§ 123.19 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 for violations of this chapter.
(Ord. 499-10-02, passed 10-21-02)

§ 123.20 MUNICIPAL CIVIL INFRACTION.

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 fine of up to \$500 and costs of prosecution. Each day a violation continues shall constitute a separate violation. Nothing in this § 123.20 shall be construed to limit the remedies available to the City in the event of a violation by a person of this chapter or permit.
(Ord. 499-10-02, passed 10-21-02)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

131. ALCOHOLIC BEVERAGES

CHAPTER 130: GENERAL OFFENSES

Section

General Provisions

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- 130.02 Property offenses
- 130.03 Offenses against government order
- 130.04 Breach of the peace offenses
- 130.05 Offenses on school grounds
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Nuisance Parties

- 130.15 Definition
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Domestic Assaults

- 130.20 Warrantless arrest
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Cross-reference:

Repeated incidence of nuisance parties, see §§ 90.80 through 90.90

GENERAL PROVISIONS

§ 130.01 OFFENSES AGAINST PERSON.

No person shall:

(A) Assault or batter another person;

(B) Willfully molest, annoy, threaten, or frighten another person;

(C) Recklessly endanger the life, health, or well-being of another person.
(’88 Code, Title IX, Ch. 111, § 9.111) (Ord 226-12-86, passed 1-29-86) Penalty, see § 130.99

§ 130.02 PROPERTY OFFENSES.

No person shall:

(A) Trespass upon the land or premises of another.

(B) Remain upon the land or premises of another after being directed to depart by the lawful owner, tenant, or resident, or agent thereof.

(C) Prowl about the land or premises of another person in the nighttime without the permission of the owner, tenant, or person in charge of said land or premises.

(D) Willfully or recklessly damage, destroy, mutilate, or deface the property of another person or public entity, which property includes personal property, fixtures, or structures attached to real estate, and shrubs, trees, grass, or plants.

(E) Take, conceal, or transport the property of another person or public entity with the intent to steal.

(F) Sell, transport, conceal or possess stolen property.

(G) (1) Obtain goods, credit, money, or labor from another person by fraud, trick, or false pretense.

(2) Some acts specifically within this subsection include the following:

(a) Obtain money or credit through an automatic teller device through the unauthorized use of any bank or credit card, or facsimile thereof;

Big Rapids - General Offenses

(b) Withdraw money through an automatic teller device while knowing there were insufficient funds on deposit to cover the withdrawal; an intent or plan to deposit sufficient funds at a later time shall not be a defense to this division;

(c) Misrepresent the amount of money deposited through a night deposit or automatic teller device, regardless of whether or not said misrepresentations are followed by withdrawals.

(H) Move, damage, disconnect, or otherwise meddle or tamper with the property of another person.

(I) Enter the motor vehicle of another person without the permission of the owner or the owner's agent.

(J) Fail to return the rental property of another person with the intent to deprive the other person of the ownership or use of said property. There must be some writing, receipt, or invoice which clearly states the date by which the rental property must be returned. Twenty-one days must elapse from the return date before prosecution can be commenced under this division; should 30 days elapse from the return date, it shall stand as *prima facie* evidence of the intent specified above.

(K) Deposit litter upon public property, or upon the private property of another person.

(L) Knowingly deposit trash or garbage in the receptacles of another without having the permission or authority to do so. This division is not intended to prohibit the good faith disposal of small amounts of litter.

(M) Knowingly utilize a telecommunications service of any sort, including telephone or cable TV, with the intent to avoid having to pay for such service, whether by improper connections, false billings, false charges, or other artifice.

(N) Enter the house, apartment, building, garage, shed, outbuilding, barn, dwelling, shop, store, office, warehouse, or other structure without the express or implied permission of the owner or a person with possessory control of the premises.

(O) Possess, consume, purchase, obtain, process, transport or sell up to 2.5 ounces of marihuana, or cultivate up to 12 marihuana plants, while under 21 years of age.

(P) Consume marihuana by smoking or any other means in a public place, including public streets, parks, sidewalks, alleys, parking lots, and public facilities, buildings, and grounds.

(Q) Draw, paint, mark, inscribe upon or otherwise deface any structure without the permission of the owner.

('88 Code, Title IX, Ch. 111, § 9.112) (Ord. 226-12-86, passed 1-29-86; Am. Ord. 316-7-92, passed 7-20-92; Am. Ord. 323-4-93, passed 4-19-93; Am. Ord. 389-5-95, passed 5-15-95; Am. Ord. 411-11-96, passed 11-18-86; Am. Ord. 504-12-02, passed 12-16-02; Am. Ord. 732-01-19, passed 1-22-19; Am. Ord. 734-03-19, passed 3-18-19; Am. Ord. 735-03-19, passed 3-18-19) Penalty, see § 130.99

§ 130.03 OFFENSES AGAINST GOVERNMENT ORDER.

No person shall:

(A) Hinder, oppose, or resist any police law enforcement officer in the performance of his duties as such.

(B) Fail to step back a reasonable distance or otherwise clear the scene when directed to do so by a police officer who is questioning others, examining evidence, or otherwise investigating a felony or misdemeanor.

(C) Furnish to any police or law enforcement officer a false name, address, age, date of birth, or piece of identification containing such false information.

(D) Knowingly furnish false information to any police or law enforcement officer pertaining to an alleged criminal violation.

(E) Escape from the lawful custody of any police or law enforcement officer.

(F) Impersonate a police officer, employee, or official of the City or other governmental entity.

(G) Loiter within or around a public building or facility after being directed to leave by a person having lawful authority or control over the facility.

(H) Create or excite a disturbance within or around a public facility, to the extent the normal use or operation of the public facility is disrupted. This division includes, without limitations, courthouses,

libraries, post offices, Ferris State University, City Hall, City offices, county offices and state offices. ('88 Code, Title IX, Ch. 111, § 9.113) (Ord. 226-12-86, passed 1-29-86) Penalty, see § 130.99

§ 130.04 BREACH OF THE PEACE OFFENSES.

No person shall:

(A) Create or engage in any disturbance, fight or quarrel in a public place or in the commons, halls, rooms, lobbies or foyers of any apartment building, dormitory or place of business.

(B) Create or engage in any disturbance, fight, quarrel or party that causes or tends to cause a breach of the peace.

(C) Knowingly permit or encourage others to engage in any disturbance, fight, quarrel or party that causes or tends to cause a breach of the peace.

(D) Disturb the public peace through loud, boisterous, profane or obscene conduct.

(E) Disturb any lawful assembly or meeting of other persons.

(F) Create, encourage, incite or engage in a riot.

(G) Peep in the windows or doors of any inhabited house, dwelling, room or other inhabited place.

(H) Urinate or defecate upon the private property of another person or in a public place or in a manner intended to display such action to others.

(I) Discharge any firearm, BB gun or pellet gun within the City. This section shall not apply to persons participating in special hunts approved by the Big Rapids City Commission within the geographic area open to the special hunt, provided the actions of the individual do not violate the guidelines for the hunt as established by the Director of Public Safety and approved by City Commission or the laws of the State of Michigan or rules and regulations of the Department of Natural Resources.

(J) Carry or otherwise possess a firearm of .177 caliber or greater while intoxicated or while under the influence of any controlled substance.

(K) Brandish, with the intent to threaten, rob or frighten another person, a fake or inoperable firearm or other dangerous weapon.

(L) Expose one's body or the body of another person, in an indecent manner; the public exposure of a person's genitalia or buttocks shall be *prima facie* evidence of "an indecent manner."

(M) Enter any cemetery, park, or public facility after posted hours.

(N) Enter any area of a public facility which is obviously fenced, posted, or otherwise closed to the general public.

(O) Operate a motor vehicle in a manner which disturbs the public peace by needlessly racing the engine, spinning tires, squealing tires, or blowing the horn.

(P) Leave outside or in a place accessible to children an abandoned or unattended ice box, refrigerator, or other container with an airtight door or lock which may not be released from the inside, without first having removed or disabled the door or lock.

('88 Code, Title IX, Ch. 111, § 9.114) (Ord. 226-12-86, passed 1-29-86; Am. Ord. 634-12-10, passed 12-6-10; Am. Ord. 638-1-11, passed 2-7-11) Penalty, see § 130.99

Cross-reference:

Nuisance parties, see § 90.65 et seq.

§ 130.05 OFFENSES ON SCHOOL GROUNDS.

No person shall:

(A) Loiter on public or private school grounds by remaining on the grounds after having been directed to leave by school personnel.

(B) Disturb the peace and good order of public or private schools by making excessive noise or creating or exciting a disturbance on or immediately adjacent to school grounds.

(C) Possess, peddle or offer for sale or distribution any controlled substance, or commodity held out to be a controlled substance, on public or private school grounds.

(D) Tamper with, remove, deface, damage, or destroy school property.

('88 Code, Title IX, Ch. 111, § 9.115) (Ord. 226-12-86, passed 1-29-86) Penalty, see § 130.99

§ 130.06 RETAIL FRAUD.

A person who does any of the following in a store or in its immediate vicinity is guilty of retail

fraud in the third degree, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500 or three times the value of the difference in price, property stolen, or money or property obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine, plus restitution to victims and the costs of prosecution:

(A) While a store is open to the public, alters, transfers, removes and replaces, conceals or otherwise misrepresents the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale if the resulting difference in price is less than \$200.

(B) While a store is open to the public, steals property of the store that is offered for sale at a price less than \$200.

(C) With intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store if the amount of money, or the value of the property obtained or attempted to be obtained is less than \$200.

(Ord. 320-2-93, passed 2-15-93; Am. Ord. 456-9-99, passed 9-20-99) Penalty, see § 130.99

§ 130.07 DEFINITIONS.

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

PUBLIC NUDITY. Knowingly or intentionally displaying in a public place any individual's genitals or anus with less than a fully opaque covering, or any female individual's breast with less than a fully opaque covering of the nipple and areola, for payment or promise of payment.

PUBLIC PLACE. Any premises within the City used or controlled in whole or in part for the purpose of displaying an individual's genitals, anus, or female breast for payment or promise of payment, and which is open to the general public as a business, club, or association.
(Ord. 394-9-95, passed 9-5-95)

§ 130.08 PUBLIC NUDITY PROHIBITED.

(A) No person, corporation, business, club, or association shall knowingly or intentionally cause,

promote, invite, employ, or encourage any person to knowingly or intentionally display in a public place for payment or promise of payment his or her genitals or anus with less than a fully opaque covering, or her female breast with less than a fully opaque covering of the nipple and areola.

(B) No person shall knowingly or intentionally display his or her genitals or anus in a public place for payment or promise of payment with less than a fully opaque covering.

(C) No female shall knowingly or intentionally display her breast in a public place for payment or promise of payment with less than a fully opaque covering of the nipple and areola. A woman's breast-feeding of a baby does not under any circumstances constitute public nudity within the purview of this section.

(D) Violation of this section shall be a misdemeanor punishable as provided in § 130.99(A). (Ord. 394-9-95, passed 9-5-95) Penalty, see § 130.99

§ 130.09 PUBLIC NUISANCE.

Any premises, building, dwelling, or other structure in which public nudity as defined in § 130.07 is offered, promoted, allowed, or encouraged shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the City before the circuit court.

(Ord. 394-9-95, passed 9-5-95)

NUISANCE PARTIES

§ 130.15 DEFINITION.

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

NUISANCE PARTY. A social gathering or party conducted on any premises within the City and which, by reason of the conduct of those persons in attendance, results in any one or more of the following conditions or events occurring on the premises or neighboring public or private property:

(1) The unlawful sale, furnishing, possession, or consumption of alcoholic beverages;

(2) Urination or defecation on neighboring public or private property, or on the premises in view of another person;

(3) Unlawful deposit of trash or litter;

(4) Destruction of property;

(5) Unlawful vehicular traffic, or the unlawful standing or parking of vehicles which obstructs the free flow of traffic or interferes with the ability to render emergency services;

(6) Unlawful parking of vehicles within the public streets, alleys, or sidewalks, or upon private property;

(7) Unreasonably loud noise under the circumstances which disturbs the comfort, quiet or repose of one or more members of the neighborhood.

(8) Conduct or a condition which injures any person;

(9) Conduct or a condition which endangers the safety of persons or property in the neighborhood;

(10) Conduct or a condition which results in the indecent exposure of a person, or the display of graphic sexual behavior, whether real or simulated, to a member of the public not attending the social gathering or party.

(11) Unlawful sale, furnishing, manufacture, use, or possession of a controlled substance as defined by federal or state law.
(’88 Code, Title IX, Ch. 109, § 9.60) (Ord. 210-8-85, passed 8-19-85; Am. Ord. 436-8-98, passed 8-3-98; Am. Ord. 637-1-11, passed 2-7-11)

§ 130.16 NUISANCE PARTY PROHIBITED.

Any owner, occupant, tenant, guests or person otherwise having any possessory control, individually or jointly, of any premises who either sponsors, conducts, hosts, invites, or permits a social gathering or party which is or during the course thereof becomes a nuisance party which is either the intentional result of or within the reasonable expectations of the person or persons having such possessory control is hereby deemed to have committed a violation of this code, and upon conviction shall be subject to the penalties as provided by § 130.99. In any prosecution for a

violation of this section or the section prohibiting persons from attending nuisance parties, proof of specific intent shall not be required as a necessary element, but proof of general criminal intent shall be a necessary element. The penalty for a subsequent violation of this section is set forth in § 130.99.

(’88 Code, Title IX, Ch. 109, § 9.61) (Ord. 210-8-85, passed 8-19-85; Am. Ord. 436-8-98, passed 8-3-98) Penalty, see § 130.99

Cross-reference:

Breach of peace offenses, see § 130.04

§ 130.17 PERSONS IN ATTENDANCE AT NUISANCE PARTIES.

Any person knowingly in attendance at a nuisance party as defined by § 130.15, whether or not such person has any possessory control over the premises, shall be deemed to have committed a violation of this section and upon conviction shall be punished as provided in § 130.99(B). "Knowingly" shall require as an element of proof that the person knew or had clear reason to know of the actual existence of one or more of the conditions or events listed in the definition of a nuisance party.

(Ord. 322-4-93, passed 4-19-93; Am. Ord. 436-8-98, passed 8-3-98) Penalty, see § 130.99

DOMESTIC ASSAULTS

§ 130.20 WARRANTLESS ARREST.

A peace officer may arrest an individual for violating Section 81 or 81a of the Michigan Penal Code (Act 328 of the Public Acts of 1931, as amended), being MCL §§ 750.81 and 750.81a, and the local ordinance substantially corresponding to MCL § 750.81, regard-less of whether the peace officer has a warrant or whether the violation was committed in his or her presence, if the peace officer has reasonable cause to believe both of the following:

(A) That the violation occurred or is occurring.

(B) That the individual has had a child in common with the victim, resides or has resided in the same household as the victim, is a spouse or former spouse of the victim, or has or has had a dating relationship with the victim.

(Ord. 369-9-94, passed 9-19-94; Am. Ord. 519-08-03, passed 8-4-03)

§ 130.21 OFFENSE OF DOMESTIC ASSAULT.

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

DATING RELATIONSHIP. Frequent, intimate associations primarily characterized by the expectation of affectional involvement. **DATING RELATIONSHIP** does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

(B) A person who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household is guilty of a misdemeanor punishable by imprisonment for not more than 93 days, a fine of not more than \$500, or both.

(Ord. 370-9-94, passed 9-19-94; Am. Ord. 455-9-99, passed 9-20-99; Am. Ord. 519-08-03, passed 8-4-03)

CHECKS; INSUFFICIENT FUNDS**§ 130.30 DISHONORED CHECKS.**

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

ADDRESS OF RECORD. The address that appears on the check or the last known address of record with the Secretary of State at the time the check was presented for payment of goods or services.

CHECK. Any check, draft, or order for the payment of money, to apply on account, or otherwise, upon any bank or other depository.

DISHONORED.

(1) Any check, draft, or order drawn or written on any account, or otherwise, upon any bank or other depository, without sufficient funds for the payment of same when presentment is made to the drawee.

(2) Any check, draft, or order drawn or written on any account which has been closed with or by the bank or other depository upon which it is drawn.

(B) *Checks drawn without sufficient funds.*

(1) No person shall with intent to defraud, make, draw, utter, or deliver any check knowing at the time of the making, drawing, uttering, or delivering that the maker or drawer does not have sufficient funds in or credit with the bank or other depository for the payment of the check in full upon its presentation in the amount payable in such check, draft, or order.

(2) No person shall with intent to defraud make, draw, utter, or deliver any check unless the person has sufficient funds for payment for same when presentment is made to the drawee, except where the lack of funds is due to garnishment, attachment, levy, or other lawful cause and such fact was not known to the person who made, drew, uttered, or delivered the instrument.

(3) As against the maker or drawer thereof, the making, drawing, uttering, or delivering of a check which is refused by the drawee when presented in the usual course of business shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided that such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with bank fees, within five business days after receiving notice by first class mail at the address of record that such check, draft, or order has not been paid by the drawee.

(4) Where such dishonored check is protested, the notice of protest thereof shall be admissible as proof of presentment, nonpayment, and protest and shall be prima facie evidence of intent to defraud and knowledge of insufficient funds or credit with such bank or other depository.

(5) Any person convicted of violating this section shall be subject to a maximum penalty of 93 days in jail or an equal amount of time of community service, plus a fine of not more than \$500.00, plus actual costs of prosecution and mandatory restitution to victims.

(Ord. 389-5-95, passed 5-15-95; Am. Ord. 503-12-02, passed 12-16-02) Penalty, see § 130.99

Cross-reference:

Civil collection of expenses, see Ch. 120

§ 130.98 VIOLATIONS.

(A) *Attempt to commit prohibited act.* Any person who attempts to commit any act prohibited in this chapter shall be subject to prosecution for said act as if it were completed upon proof of the requisite intent and some substantial overt acts in furtherance of that intent. The maximum penalty for a conviction of an attempt shall be one-half of the maximum of that set for the completed act, except restitution to a victim shall be fully assessed.

('88 Code, Title IX, Ch. 111, § 9.116)

(B) *Aiders and abettors.* Any person who aids, abets, procures, commands, assists, or conspires in the commission of any act prohibited in this chapter shall be subject to prosecution, conviction, and punishment as a principal.

('88 Code, Title IX, Ch. 111, § 9.117) (Ord. 226-12-86, passed 1-29-86)

§ 130.99 PENALTY.

(A) Except for those offenses for which a specific penalty is otherwise provided, any person convicted under this chapter shall be subject to a maximum penalty of 90 days in jail, or an equal amount of community service, or any combination thereof not exceeding 90 days, plus \$500 fine, plus actual costs of prosecution, plus mandatory restitution to victims.

('88 Code, Title IX, Ch. 111, § 9.118) (Ord. 226-12-86, passed 1-29-86; Am. Ord. 323-4-93, passed 4-19-93; Am. Ord. 520-08-03, passed 8-4-03)

(B) Any person convicted of violating § 130.16 for a subsequent offense within four years after commission of a previous offense, shall be punished by a fine of not less than \$250 nor more than \$500 and a mandatory imprisonment for a term of not less than three days and not exceeding 90 days for each of said subsequent violations within four years of each previous violation thereof.

('88 Code, Title IX, Ch. 109, § 9.62) (Ord. 210-8-85, passed 8-19-85)

(C) The penalty for the following enumerated violations shall be a maximum of 93 days in jail or an equal amount of community service, or any combination thereof not exceeding 93 days, plus a fine of not more than \$500, plus actual costs of prosecution and mandatory restitution to victims:

(1) Section 130.01(A), assault or battery;

(2) Section 130.06, retail fraud;

(3) Section 130.30, dishonored checks;

(4) Section 130.21, domestic assault.

(Ord. 520-08-03, passed 8-4-03)

(D) (1) For a first violation of § 130.02(O), a civil infraction punishable as follows:

(a) If the person is less than 18 years of age, by a fine of not more than \$100 or community service, forfeiture of the marihuana, and completion of four hours of drug education or counseling; or

(b) If the person is at least 18 years of age, by a fine of not more than \$100 and forfeiture of the marihuana.

(2) For a second violation of § 130.02(O), a civil infraction punishable as follows:

(a) If the person is less than 18 years of age, by a fine of not more than \$500 or community service, forfeiture of the marihuana, and completion of eight hours of drug education or counseling; or

(b) If the person is at least 18 years of age, by a fine of not more than \$500 and forfeiture of the marihuana.

(Ord. 734-03-19, passed 3-18-19)

(E) (1) For a first violation of § 130.02(P), a civil infraction punishable by a fine of not more than \$100 or community service and forfeiture of the marihuana; and

(2) For a second violation of § 130.02(P), a civil infraction punishable by a fine of not more than \$500 and forfeiture of the marihuana.

(Ord. 735-03-19, passed 3-18-19)

CHAPTER 131: ALCOHOLIC BEVERAGES

Section

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Cross-reference:

Repeated illegal activity involving alcohol, see §§ 90.80 through 90.90

GENERAL PROVISIONS

§ 131.01 DEFINITIONS.

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

ALCOHOLIC LIQUOR or **ALCOHOLIC BEVERAGE.** Any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether

or not medicated, proprietary, patented, and by whatever name called, containing 1/2% or more of alcohol by volume, fit for beverage purposes.

BODILY ALCOHOL CONTENT. As used in this Chapter, “any bodily alcohol content” means either of the following:

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

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

INTOXICATED CONDITION. Any person who is intoxicated, as defined in *Lefler vs. Fisher*, 121 Michigan, Pages 60-63.

LICENSED PREMISES. The premises described in the license granted to a person and under which he sells alcoholic liquor and beverages.

LICENSEE. Those persons licensed by state or City authority to sell alcoholic liquors or beverages for both consumption on and off the premises.

MINOR. A person not yet 21 years of age. ('88 Code, Title IX, Ch. 112, § 9.151) (Am. Ord. 568-06-06, passed 6-5-06)

§ 131.02 SUNDAY SALES.

A licensee issued a Sunday sales permit by the liquor control commission permitting the sale of spirits on Sunday between the hours of 12 noon, EST and 12 midnight shall be permitted to sell at retail, give away or furnish alcoholic liquor for consumption on or off the premises.

('88 Code, Title IX, Ch. 112, § 9.152) (Ord. 103, passed 6-5-72; Am. Ord. 568-06-06, passed 6-5-06)

§ 131.03 SALES; REGULATIONS.

(A) No licensee shall sell, give away, or furnish any alcoholic liquor between the hours of 2:00 a.m. and 7:00 a.m. on any day and shall not sell, give away, or furnish alcoholic liquor between the hours of 2:00 a.m. and 12 noon, EST on Sundays without authorization from the Michigan Liquor Control Commission.

(B) No licensee shall sell any alcoholic liquor or beverage except for cash.

(C) No licensee shall sell, give or furnish alcoholic liquors or beverages to any person in an intoxicated condition.

('88 Code, Title IX, Ch. 112, § 9.157) (Am. Ord. 568-06-06, passed 6-5-06) Penalty, see § 10.99

§ 131.04 CONSUMPTION ON STREET OR PARKING LOT.

It shall be a municipal civil infraction to consume any alcoholic beverage on any street, alley, sidewalk, parkway, alley or parking lot open to the public.

('88 Code, Title IX, Ch. 112, § 9.159) (Am. Ord. 437-8-98, passed 8-3-98; Am. Ord. 568-06-06, passed 6-5-06; Am. Ord. 652-9-12, passed 9-17-12) Penalty, see § 10.99

§ 131.05 POSSESSING OPEN ALCOHOLIC BEVERAGE.

It shall be a municipal civil infraction for any person to transport or possess any alcoholic liquor in a container which is open, uncapped, or upon which the seal is broken on any street, sidewalk, parkway, alley or parking lot open to the public.

(Ord. 324-6-93, passed 6-7-93; Am. Ord. 437-98, passed 8-3-98; Am. Ord. 568-06-06, passed 6-5-06; Am. Ord. 652-9-12, passed 9-17-12) Penalty, see § 10.99

§ 131.06 PERSONS, EMPLOYEES; RESPONSIBILITY.

Any person, whether in the employ of another or in the employ of a partnership, association, corporation or self-employed, shall be subject to the provisions of this code in selling alcoholic liquor at retail, giving it away or furnishing it contrary to the provisions of this chapter.

('88 Code, Title IX, Ch. 112, § 9.153) (Am. Ord. 568-06-06, passed 6-5-06)

§ 131.07 SALE TO MINORS PROHIBITED.

Alcoholic liquor shall not be sold or furnished to a minor. Except as otherwise provided in § 131.08, a person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the person is a minor, is guilty of a misdemeanor. A retail licensee or a retail licensee's clerk, agent, or employee who violates this section shall be punished in the manner provided for licensees in MCL 436.1909 except that if the violation is the result of an undercover operation in which the minor received alcoholic liquor under the direction of the State Police, the Commission, or a local police agency as part of an enforcement action, the retail licensee's clerk, agent, or employee is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100. Except as otherwise provided in § 131.09, a person who is not a retail licensee or a retail licensee's clerk, agent, or employee and who violates this section is guilty of a misdemeanor punishable by a fine of not more than \$1,000 and imprisonment for not more than 60 days for a first offense, a fine of not more than \$2,500 and imprisonment for not more than 90 days for a second or subsequent offense, and may be ordered to perform community service. For a second or subsequent offense, the Secretary of State shall suspend the operator's or chauffeur's license of an individual who is not a retail licensee or retail licensee's clerk, agent, or employee and who is convicted of violating this section as provided in section 319 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.319. A suitable sign describing the content of this section and the penalties for its violation shall be posted in a conspicuous place in each room where alcoholic liquor is sold. The signs shall be approved and furnished by the Commission. (Ord. 396-10-95, passed 10-2-95; Am. Ord. 568-06-06, passed 6-5-06; Am. Ord. 712-10-17, passed 10-2-17; Am. Ord. 713-10-17, passed 10-16-17) Penalty, see § 131.99

§ 131.08 PURCHASE, CONSUMPTION, AND POSSESSION BY MINORS PROHIBITED.

(A) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section.

(B) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if

employed by a person licensed by this act, by the Commission, or by an agent of the Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(C) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

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

(E) Division (A) does not apply to a minor who participates in either or both of the following:

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

(2) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the State Police, the Commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase of receipt of alcoholic liquor by the minor was not under the direction of the State Police, the Commission, or the local police agency and was not part of the undercover operation.
(Ord. 396-10-95, passed 10-2-95; Am. Ord. 568-06-06, passed 6-5-06; Am. Ord. 712-10-17, passed 10-2-17; Am. Ord. 713-10-17, passed 10-16-17) Penalty, see § 131.99

§ 131.09 FURNISHING OR USING FRAUDULENT IDENTIFICATION.

A person who furnishes fraudulent identification to a minor or, notwithstanding § 131.08(A), a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100, or both.
(Ord. 396-10-95, passed 10-2-95; Am. Ord. 568-06-06, passed 6-5-06; Am. Ord. 712-10-17, passed 10-2-17; Am. Ord. 713-10-17, passed 10-16-17) Penalty, see § 131.99

§ 131.10 AUTHORITY TO STOP; APPEARANCE TICKETS.

(A) A sworn police officer who witnesses a violation of this chapter may stop and detain a person and obtain satisfactory identification, seize illegally possessed alcoholic liquor, and issue an appearance ticket.

(B) A sworn police officer may stop and detain a person based upon reasonable and articulable suspicion of a violation of this chapter and obtain satisfactory identification, seize illegally possessed alcoholic liquor, and issue an appearance ticket.

(C) A sworn police officer may issue an appearance ticket for a violation of § 131.08 to a person when advised by an employee of a business possessing a state liquor license that the person has presented false identification to the employee and the officer observes the false identification.
(Ord. 396-10-95, passed 10-2-9; Am. Ord. 268-06-06, passed 6-5-06; Am. Ord. 712-10-17, passed 10-2-17; Am. Ord. 713-10-17, passed 10-16-17) Penalty, see § 131.99

§ 131.11 NOTICE TO PARENTS OR GUARDIANS.

A law enforcement agency, on determining that an individual who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of § 131.08, shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation if the name of the parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The law enforcement agency shall notify the parent, guardian, or custodian not later than 48 hours after the law enforcement agency determine that the individual who allegedly violated § 131.08 is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The law enforcement agency may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating § 131.08, his or her parents or legal guardian shall be notified immediately as provided in this section.
(Ord. 396-10-95, passed 10-2-95; Am. Ord. 568-06-06, passed 6-5-06; Am. Ord. 712-10-17, passed 10-2-17; Am. Ord. 713-10-17, passed 10-16-17)

§ 131.12 LICENSE SANCTIONS.

The Secretary of State shall suspend the operator's or chauffeur's license of an individual convicted of a second or subsequent violation of § 131.08(A) or of violating § 131.09 as provided in section 319 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.319.

(Ord. 396-10-95, passed 10-2-95; Am. Ord. 568-06-06, passed 6-5-06; Am. Ord. 712-10-17, passed 10-2-17; Am. Ord. 713-10-17, passed 10-16-17)

§ 131.13 PRELIMINARY BREATH TEST.

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 shall 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.

(Ord. 712-10-17, passed 10-2-17; Am. Ord. 713-10-17, passed 10-16-17)

§ 131.14 PENALTIES.

(A) A minor who violates § 131.08 is responsible for a civil infraction or guilty of a misdemeanor as follows and is not subject to the penalties prescribed in MCL 436.1909:

(1) For the first violation, the minor is responsible for a civil infraction and shall be fined not more than \$100. A court may order a minor under this division (A)(1) to participate in substance use disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the Administrator of the Office of Substance Abuse Services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in § 131.14(D). A minor may be found responsible or admit responsibility only once under this division (A)(1).

(2) If a violation of this division (A) occurs after one prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this division

(A)(2) is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$200, or both. A court may order a minor under this division (A)(2) to participate in substance use disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the Administrator of the Office of Substance Abuse Services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in § 131.14(D).

(3) If a violation of this division (A) occurs after two or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this division (A)(3) is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$500, or both, as applicable. A court may order a minor under this division (A)(3) to participate in substance use disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the Administrator of the Office of Substance Abuse Services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in § 131.14(D).

(B) If an individual who pleads guilty to a misdemeanor violation of division (A)(2) above or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of division (A)(2) above, the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in division (A)(3) above, payment of the costs including minimum state cost as provided for in section 18m of chapter XIII of the Probate Code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of chapter IX of the Code of Criminal Procedure, 1927 PA 175, MCL 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the Code of Criminal Procedure, 1927 PA 175, MCL 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is

utilizing this division (B) in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this section is without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disqualifications or disabilities imposed by law on conviction of a crime. An individual may obtain only one discharge and dismissal under this division (B). The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The Secretary of State shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(1) To a court, prosecutor, or police agency upon request for the purpose of determining if an individual has already utilized this division (B).

(2) To the Department of Corrections, a prosecutor, or a law enforcement agency, on the Department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

(a) At the time of the request, the individual is an employee of the Department of Corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the Department of Corrections, the prosecutor, or the law enforcement agency.

(b) The record is used by the Department of Corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(C) A misdemeanor violation of § 131.08 successfully deferred, discharged, and dismissed under division (B) is considered a prior violation for the purposes of divisions (A)(2) and (3) above.

(D) A court may order an individual found responsible for or convicted of violating section § 131.08 to undergo screening and assessment by a person or agency as designated by the

Department-designated community mental health entity as defined in section 1100a of the Mental Health Code, 1974 PA 258, MCL 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of § 131.08 to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

(E) The Secretary of State shall suspend the operator's or chauffeur's license of an individual convicted of a second or subsequent violation of section § 131.08 or of violating § 131.09 as provided in section 319 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.319. (Ord. 712-10-17, passed 10-2-17; Am. Ord. 713-10-17, passed 10-16-17)

LICENSES

§ 131.20 TITLE.

This subchapter shall be known as the City's "Liquor License Ordinance." (Am. Ord. 415-2-97, passed 2-17-97)

§ 131.21 PURPOSE.

The purpose of this subchapter is to establish standards and procedures for the review and input of the City on the issuance, renewal, transfer, revocation, or modification of a liquor license. (Am. Ord. 415-2-97, passed 2-17-97)

§ 131.22 APPLICATION FOR NEW LICENSE OR LICENSE TRANSFER.

(A) *Application contents.* Applications for a license to sell beer, wine, or spirits shall be made to the City Commission by filing a written application, signed by the applicant, with the City Clerk. The application shall be in a form required by the City Clerk and shall contain at a minimum the following statements and information:

Big Rapids - General Offenses

(1) The name, age, and address of the applicant and all partners of the applicant. If the applicant is a corporation, a copy of the articles of incorporation and current corporation records disclosing the identity and address of all directors, officers, and shareholders.

(2) The location and legal description of the premises or place of business at which the liquor license will be utilized, and the name and address of the owner, if different from the holder of the liquor license, and written evidence of the applicant's right to possession of the premises.

(3) A zoning permit or similar clearance from the Zoning Administrator verifying that the proposed use of the location at which the liquor license will be utilized is in compliance with the zoning ordinance.

(4) A certificate of occupancy or similar clearance from the Building Inspector verifying that the structure and premises at which the liquor license will be utilized is in compliance with building, property maintenance, and all other applicable local code provisions.

(5) Certification or other written evidence from the City Treasurer demonstrating that all real and personal property taxes and City utility bills associated with the premises at which the liquor license will be used are paid to date and that all real and personal property taxes, City income taxes, and City utility bills in the name of the applicant are paid to date.

(6) Specific personal information on the applicant, partners, directors, and shareholders as required by the Department of Public Safety to run a criminal history or similar record check.

(7) A statement that the applicant will not violate any of the laws of the state or the ordinances of the City in conducting the business in which the liquor license will be used and that a violation on the premises may be cause for objecting to renewal of the license or for requesting revocation of the license.

(8) A statement that the applicant understands that the City has an ordinance prohibiting public nudity and that a violation of the ordinance on the premises where the liquor license is used will be cause for objecting to renewal of the license or for requesting revocation of the license.

(B) *Liquor license transfers.* Applications for liquor license transfers shall be submitted to the City Clerk on a form required by the City Clerk and signed by both the current license holder and the proposed license holder. The application shall contain, at a minimum, the information and statements required in an application for a new license.

(C) *Restrictions on licenses.* The City Commission shall not approve, grant, or recommend the issuance or transfer of a liquor license:

(1) Without a fully completed application that meets the requirements listed above for the contents of an application for a license;

(2) To an applicant who has had a liquor license revoked under this ordinance or by the state Liquor Control Commission;

(3) To a corporation with a manager, officer, director, or shareholder who would be ineligible under this ordinance or state Liquor Control Commission regulations to receive a liquor license; or

(4) Where the proposed location is not readily accessible to police, fire, and EMS vehicles.

(D) *Term of license approval.* The City Commission's approval or positive recommendation to the State Liquor Control Commission concerning a proposed liquor license shall be for a period not to exceed one year. Any required remodeling or new construction for the use of the license shall be completed within six months of the Liquor Control Commission's approval or issuance of the license, unless a specific allowance of up to two additional months is granted by the City for good cause.

(E) *Discretion.* The City Commission shall exercise its discretionary authority in reviewing and acting on applications for liquor licenses and liquor license transfers.

(F) *Public hearing.* The City Commission may hold a public hearing on any application for a new liquor license or a transfer of a liquor license.

(G) *Applicant's presentation.* The applicant shall be allowed a reasonable opportunity to make a presentation to the City Commission in support of the application for a new liquor license or a transfer of an existing liquor license.

(Am. Ord. 415-2-97, passed 2-17-97)

§ 131.23 OBJECTIONS TO RENEWAL; REQUESTS FOR REVOCATION.

(A) *Objection to renewal.* The City Commission may object to the renewal of a liquor license by filing a resolution describing the basis of the objection with the State Liquor Control Commission, along with all substantiating documents, not later than March 31, to be considered for a renewal effective April 30.

(B) *Request for revocation.* The City Commission may request revocation of a liquor license at any time by filing a resolution describing the basis of the request, along with all substantiating documents.

(C) *Procedure.*

(1) Before filing an objection to a license renewal or a request for revocation of a license with the State Liquor Control Commission, the City Commission shall conduct a hearing on the subject. The City Commission shall serve the license holder with notice of the hearing by first class mail, mailed at least ten days prior to the hearing.

(2) The notice of hearing shall contain:

(a) Notice of the proposed action;

(b) Reasons for the proposed action;

(c) The date, time, and place of the hearing; and

(d) A statement informing the license holder that he or she may confront adverse witnesses and may present witnesses, evidence, and arguments.

(3) At the close of the hearing, while in open session, the City Commission shall make factual findings and any determination necessary for a resolution objecting to a license renewal or requesting revocation of a license. The City Commission shall submit a written statement of its findings, determinations, and resolution to the license holder and the State Liquor Control Commission within 15 days of the hearing.

(D) *Criteria for non-renewal or revocation.* The City Commission may recommend to the State Liquor Control Commission non-renewal or revocation of a liquor license based upon a determination that a preponderance of the evidence presented at the hearing indicated the existence of:

(1) A failure to meet the conditions or maintain compliance with the standards established by this subchapter in reference to applications for a new license or the transfer of an existing license; or

(2) One or more violations of state law or local ordinance on the premises; or

(3) Maintenance of a nuisance on the premises; or

(4) A demonstrated history of excessive calls for public safety (police, fire, and EMS) services originating from the premises.
(Am. Ord. 415-2-97, passed 2-17-97)

§ 131.99 PENALTY.

Any person violating a provision of this chapter for which no other specific penalty applies shall be subject to the penalty set forth in § 10.99.
(Ord. 396-10-95, passed 10-2-95; Am. Ord. 712-10-17, passed 10-2-17; Am. Ord. 713-10-17, passed 10-16-17)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS**
- 151. HOUSING REGULATIONS**
- 152. FLOOD DAMAGE PREVENTION**
- 153. LAND DIVISION, PLAT REVIEW AND LOT SPLIT**
- 154. ZONING CODE**
- 155. TAX EXEMPTION FOR HOUSING DEVELOPMENT**

CHAPTER 150: BUILDING REGULATIONS

Section

- 150.01 Adoption of state construction code
- 150.02 Enforcing agency

§ 150.01 ADOPTION OF STATE CONSTRUCTION CODE.

From and after the effective date of Act 230 of Michigan Public Acts of 1972, the City adopts the State Construction Code Act and agrees to be bound by the provisions of the Act in the City.
(’88 Code, Title VIII, Ch. 98, § 8.1) (Ord. 118, passed 10-21-74)

§ 150.02 ENFORCING AGENCY.

Pursuant to the provisions of Section 8b(7) of the State Construction Code Act of 1972, as amended, the City of Big Rapids hereby transfers responsibility for the administration and enforcement of its building code provision to the County of Mecosta.
(’88 Code, Title VIII, Ch. 98, § 8.2) (Ord. 118, passed 10-21-74; Am. Ord. 522-9-03, passed 9-15-03)

CHAPTER 151: HOUSING REGULATIONS

Section

GENERAL PROVISIONS

General Provisions

- 151.01 International Property Maintenance Code (IPMC) adopted
- 151.02 Amendments to International Property Maintenance Code
- 151.03 Property address numbers
- 151.04 Fire extinguishers
- 151.05 Housing Law of Michigan adopted

Housing Maintenance Certificates

- 151.15 Maintenance certificate required
- 151.16 Code Official to issue certificate
- 151.17 Dwellings to conform
- 151.18 Temporary certificates
- 151.19 Record to be kept; copies
- 151.20 Application for certificate; renewal
- 151.21 Local contact person to be designated
- 151.22 Tenant to allow entry of Inspector
- 151.23 Certificate to be displayed; not transferable to another dwelling or owner; notice required
- 151.24 Record of repair and complaint to be maintained by certificate holder
- 151.25 Notice of violation
- 151.26 Reinspection; suspension of operating license
- 151.27 Appeal

Smoke Detectors

- 151.35 Requirement
- 151.36 Definitions
- 151.37 Installation
- 151.38 Alternative
- 151.39 Conformance
- 151.40 Change of occupancy
- 151.41 Power source
- 151.42 Tampering

- 151.99 Penalty

§ 151.01 INTERNATIONAL PROPERTY MAINTENANCE CODE (IPMC) ADOPTED.

A copy of the document on file in the office of the City Clerk, being marked and designated as the International Property Maintenance Code, 2018 edition, as published by the International Code Council, is adopted as the Property Maintenance Code of the City for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of the Property Maintenance Code on file in the office of the City Clerk are hereby adopted by reference as authorized by MCL 117.3(k), and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes prescribed in § 151.02. Printed copies of the law, code, or rule shall be kept in the office of the City Clerk, available for inspection by, and distribution to, the public at all times.

('88 Code, Title VIII, Ch. 99, § 8.21) (Ord. 131, passed 2-6-78; Am. Ord. 181-6-83, passed 6-6-83; Am. Ord. 419-4-97, passed - -97; Am. Ord. 585-08-07, passed 8-20-07; Am. Ord. 605-04-09, passed 4-20-09; Am. Ord. 720-05-18, passed 5-7-18) Penalty, see § 151.99

§ 151.02 AMENDMENTS TO INTERNATIONAL PROPERTY MAINTENANCE CODE.

The following sections are hereby revised:

Section 101.1 Insert: The City of Big Rapids.

Section 103.5 Insert: Fees to be set by the Big Rapids City Commission.

Section 112.4 Insert: \$50, \$500.

Section 302.4 Insert: Six (6) inches.

Section 304.14 Insert: May 1, October 1.

Section 602.3 Insert: September 1, June 1.

Section 602.4 Insert: September 1, June 1.
(Ord. 720-05-18, passed 5-7-18)

§ 151.03 PROPERTY ADDRESS NUMBERS.

(A) *Posting of building address numbers.* The owners of all buildings within the City shall cause the correct building address numbers to be placed on such buildings in the manner specified herein.

(B) *Applicability to existing displays.* Existing building address displays, whether displayed as text or numbers, shall be permitted if the display illustrates the correct property address number and is visible from the street.

(C) *Responsibility for assigning numbers.* New building and/or property address numbers shall be assigned by the Department of Community Development.

(D) *Numbering method.*

(1) New building address numbers shall fall into the range of block numbers as established and indicated on the City zoning map.

(2) The point of origin for numbering shall be the intersection of State and Maple Streets.

(3) Along any street, numbering shall proceed by increments of four.

(4) Odd numbers shall be used on one side of a street while even numbers shall be used on the opposite side of the same street, and the odd/even pattern shall be consistent with the established pattern of the area.

(5) Fractional building address numbers, such as 232½, are prohibited.

(E) *Numbering multiple family dwelling.*

(1) A building containing two, three, or four residential units shall display numbers with alphabetical suffixes for each unit as specified by this section, for example, 342A, 342B, 342C, and 342D.

(2) A building containing more than four residential units shall display one number for the building. A placard indicating the addresses and/or apartment numbers of individual occupants of such a structure shall be posted in a common or public area of the structure.

(F) *Number place.*

(1) *Size and color.* Building address numbers shall not be less than three inches in height and shall be block letters of a color which contrasts with the immediate background on which they are mounted.

(2) *Placement.*

(a) Building address numbers on all structures shall be placed at, on, or as near as practical to the front door or directly over the garage door and shall be facing the street in such a position as to be readily visible from the street on which the building fronts.

(b) Numbers shall not be less than three feet from ground level.

(3) *Maintenance.* Building address numbers shall be maintained in a neat, attractive manner.

(4) *Enforcement.* It shall be the duty of the Department of Community Development to enforce this section. Existing structures will be required to be in compliance with this section within six months of the adoption of this section.
(Ord. 383-5-95, passed 5-1-95; Am. Ord. 605-04-09, passed 4-20-09; Am. Ord. 762-07-20, passed 7-20-20)

§ 151.04 FIRE EXTINGUISHERS.

(A) It shall be the responsibility of the owner of each new and existing rental unit within the City to install an ABC rated dry chemical fire extinguisher in the kitchen of each such rental unit. The extinguisher shall contain no less than 35 ounces of dry chemical and be maintained in working order. The landlord, within 72 hours of being notified, shall be responsible to refill or replace an extinguisher that has been emptied or is not functional for any reason.

(B) Extinguishers shall be installed a minimum of 42 inches and a maximum of 60 inches off the floor.

(C) No person shall tamper with or discharge an extinguisher placed in a rental unit under this section for any reason other than to extinguish a fire or for self protection.

(D) A person found in violation of this section shall be guilty of a municipal civil infraction. (Ord. 561-01-06, passed 1-3-06; Am. Ord. 564-02-06, passed 2-20-06; Am. Ord. 605-04-09, passed 4-20-09) Penalty, see § 151.99

§ 151.05 HOUSING LAW OF MICHIGAN ADOPTED.

(A) The Housing Law of Michigan, Act 167 of 1917, as amended, is adopted by reference for administration and enforcement by the City of Big Rapids, as authorized by MCL 125.523.

(B) The City of Big Rapids shall be the enforcing agency within the City of Big Rapids of the Housing Law of Michigan, Act 167 of 1917, as amended, through the City departments and officers designated by the City Manager.

(C) Complete copies of the Housing Law of Michigan, Act 167 of 1917, as amended, can be reviewed and obtained in the office of the City Clerk, City Hall, 226 N. Michigan Avenue, Big Rapids, MI 49307, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. (Ord. 677-8-14, passed 8-18-14)

HOUSING MAINTENANCE CERTIFICATES

§ 151.15 MAINTENANCE CERTIFICATE REQUIRED.

(A) No person shall occupy a multiple family dwelling, rooming dwelling, boarding dwelling, lodging dwelling, lodging dwelling, tourist dwelling, hotel, motel or other rented dwelling for human habitation unless a current, unrevoked Housing Maintenance certificate has been issued by the Code Official, or his designee, for the specific named dwelling.

(B) No person shall operate or permit occupancy of a multiple family dwelling, rooming dwelling, boarding dwelling, lodging dwelling, tourist dwelling, hotel, motel or other rented dwelling for human habitation unless he holds a current, unrevoked Housing Maintenance Certificate issued by the Code Official, or his designee, in the person's name for the specific dwelling. ('88 Code, Title VIII, Ch. 99, § 8.31(1)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09) Penalty, see § 151.99

§ 151.16 CODE OFFICIAL TO ISSUE CERTIFICATE.

The Code Official or his designee is the duly appointed officer for the issuance of Housing Maintenance Certificates under this subchapter. ('88 Code, Title VIII, Ch. 99, § 8.31(1)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09)

§ 151.17 DWELLINGS TO CONFORM.

Housing Maintenance Certificates shall be issued only for dwellings which are in conformity to all the provisions which apply to the particular type of building sought to be licensed. ('88 Code, Title VIII, Ch. 99, § 8.31(2)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09)

§ 151.18 TEMPORARY CERTIFICATES.

Nothing in this subchapter shall prevent the Code Official from issuing a Temporary Housing Maintenance Certificate for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six months nor more than five days after the completion of the building or alteration, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this chapter. ('88 Code, Title VIII, Ch. 99, § 8.31(3)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09)

§ 151.19 RECORD TO BE KEPT; COPIES.

A record of all Housing Maintenance Certificates issued shall be kept on file in the office of the Code Official, and copies shall be furnished upon request, upon payment of any fee required, to any persons having a proprietary or tenancy interest in the property involved. Copies shall also be furnished upon payment of any fee required, to any person who is contemplating purchasing the property who presents a purchase agreement or option to purchase signed by him and the person having a proprietary interest in the property. ('88 Code, Title VIII, Ch. 99, § 8.31(4)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09)

**§ 151.20 APPLICATION FOR CERTIFICATE;
RENEWAL.**

(A) Application for Housing Maintenance Certificates shall be made by the owner, and Certificates shall be issued in the name of the applicant. ('88 Code, Title VIII, Ch. 99, § 8.31(6))

(B) Application for Housing Maintenance Certificates and for renewals of Housing Maintenance Certificates shall be made in writing to the Code Official on forms furnished by the Code Official and shall be accompanied by a fee as set forth in division (F) of this section paid as set forth in the rules and regulations made pursuant to this subchapter.

(C) Housing Maintenance Certificates and renewals of Housing Maintenance Certificates shall be issued if, after inspection, it is found that the dwelling is in accordance with all the provisions of this chapter. If the certificate is refused, the applicant for the certificate shall be notified in writing of the refusal and the cause thereof.

(D) Housing Maintenance Certificates shall be issued for a period of one year from its date of issuance unless sooner revoked, and may be renewed for successive periods of not to exceed one year, except the Code Official is authorized, on the first such certificate issued for a dwelling, to issue the certificate for a period longer than one year, but not longer than one year and nine months for the purpose of adjusting the time when such certificates expire and thus, adjusting the time when renewal of such certificates is likely to be requested.
('88 Code, Title VIII, Ch. 99, § 8.31(5))

(E) No Housing Maintenance Certificate shall be renewed unless an application therefor has been made within 30 days prior to the expiration of the present Housing Maintenance Certificate. If timely application is not made, a late fee will be paid as set forth in division (F) of this section.
('88 Code, Title VIII, Ch. 99, § 8.31(9))

(F) *Application fee.*

(1) The certificate fee which must accompany application for a Housing Maintenance Certificate is as follows:

Initial inspection	
First unit per building	\$40.00
Each additional unit per building	30.00
Reinspection of a unit	40.00
Failure to attend a scheduled inspection	25.00

There will be a \$25 charge when the owner or owner's agent fails to attend a scheduled inspection.

There will be no charge for the first reinspection if violations identified at the initial inspection have been corrected.

If however, violations have not been corrected, the property owner will be charged the reinspection fee listed above for the first reinspection visit.

If the remediation required at the first inspection remains uncorrected at the next reinspection, the reinspection fee will be charged at the onset of each subsequent reinspection visit to be required until the work is completed.

Cabins, hotels, and motels	\$70.00
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(2) Late fees: applicants failing to file timely under the provisions of this section shall pay double the above fees after the due date. ('88 Code, Title VIII, Ch. 99, § 8.31(17)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 355-6-94, passed 6-6-94; Am. Ord. 546-05-05, passed 5-16-05; Am. Ord. 605-04-09, passed 4-20-09; Am. Ord. 718-02-18, passed 2-19-18)

§ 151.21 LOCAL CONTACT PERSON TO BE DESIGNATED.

(A) Applicants shall designate a local contact person upon whom service of notice under this subchapter and service of process for violation of this code may be made in the absence of the owner. The owner must designate a local contact person with an office or residence in the City or within 10 miles of the corporate limits of the City. Such a designation shall be made in writing and shall accompany each application or renewal application for a Housing

Maintenance Certificate. The violation of this subsection shall be a civil infraction, and shall be cause for revocation of a housing maintenance certificate.

(B) An owner of real property who designates a local contact person can be given notice and billing by the City via first class mail to the local contact person at the address specified in the designation, for:

- (1) real property taxes;
 - (2) personal property taxes;
 - (3) utility billings (water, sewer, sanitation);
 - (4) property maintenance code violations;
 - (5) building and fire code violations;
 - (6) zoning ordinance violations;
 - (7) nuisance and blight violations;
 - (8) nuisance padlock incidents.
- ('88 Code, Title VIII, Ch. 99, § 8.31(7)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 511-04-03, passed 4-7-03; Am. Ord. 605-04-09, passed 4-20-09)

§ 151.22 TENANT TO ALLOW ENTRY OF INSPECTOR.

Every person holding a Housing and Maintenance Certificate shall provide in his lease with tenants or roomers, whether said lease is written or oral, a provision that the tenant or roomer will allow the Code Official, or his designee, access to the leased premises for the purpose of the inspection required as a prerequisite to the granting or renewal of a Housing Maintenance Certificate. ('88 Code, Title VIII, Ch. 99, § 8.31(8)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09)

**§ 151.23 CERTIFICATE TO BE DISPLAYED;
NOT TRANSFERABLE TO ANOTHER DWELLING
OR OWNER; NOTICE REQUIRED.**

(A) Each certificate shall be displayed in a conspicuous place within the common ways, if any, of the dwelling licensed.

(B) No certificate shall be transferable to another person, or to another dwelling. Each person holding a Housing Maintenance Certificate shall give notice in writing to the Code Official within 24 hours after having transferred or otherwise disposed of the legal control of any licensed dwelling. Such notice shall include the name and address of the person or persons succeeding to the ownership or control of such dwelling.

('88 Code, Title VIII, Ch. 99, § 8.31(10)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09)

**§ 151.24 RECORD OF REPAIR AND COMPLAINT
TO BE MAINTAINED BY CERTIFICATE HOLDER.**

Every person holding a Housing Maintenance Certificate shall keep, or cause to be kept, records of all requests for repair and complaints by tenants, which are related to the provisions of this chapter and to any applicable rules and regulations, and of all corrections made in response to such requests and complaints. Such records shall be made available by the certificate holder to the Code Official for inspection and copying upon request.

('88 Code, Title VIII, Ch. 99, § 8.31(11)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09)

§ 151.25 NOTICE OF VIOLATION.

Whenever, upon inspection of the licensed dwelling, or upon inspection of the records required to be kept under § 151.24, the Code Official finds that conditions or practices exist which are in violation of the provisions of this chapter or of any applicable rules and regulations pursuant thereto, he shall serve the owner with notice of such violation in the manner provided for notice in this subchapter. Such notice shall state that unless the violation cited is corrected within a reasonable time set by the Code Official not to exceed 30 days, the operating license may be suspended.

('88 Code, Title VIII, Ch. 99, § 8.31(12)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 511-04-03, passed 4-7-03; Am. Ord. 605-04-09, passed 4-20-09)

**§ 151.26 REINSPECTION; SUSPENSION OF
OPERATING LICENSE.**

At the end of the time the Code Official has allowed for the correction of any violation notices as provided in § 151.25, the Code Official shall reinspect the licensed dwelling and if he determines that the conditions requiring corrections set forth in the notice sent have not been corrected, he may issue an order suspending the operating license [i.e., Housing Maintenance Certificate] which shall be set in the manner provided for notices in this subchapter.

('88 Code, Title VIII, Ch. 99, § 8.31(13)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09)

§ 151.27 APPEAL.

(A) Any person whose certificate under this subchapter has been suspended by the order of the Code Official shall be entitled to an appeal to the Housing Board of Appeals as provided in this subchapter. If no appeal is properly presented within 21 days following this issuance of the order of suspension, the certificate shall be revoked except that if prior to revocation of the certificate any person whose certificate has been ordered suspended may request reinspection, upon a showing that the violation or violations cited in the notice have been corrected.

(B) *Reinstatement.* If, upon reinspection pursuant to the request of the person whose certificate has been ordered suspended but not revoked, the Code Official finds the dwelling in connection with which the notice was issued is now in compliance with this code and with applicable rules and regulations issued pursuant thereto, he shall reinstate the certificate. A request for reinspection shall not extend the suspension period.

(C) If an appeal to the Housing Board of Appeals is taken under division (A) of this section, and if the Housing Board of Appeals does not reverse the decision of the Code Official, the certificate shall be revoked within ten days following the denial of the appeal by the Housing Board of Appeals.

('88 Code, Title VIII, Ch. 99, § 8.31(14) - (16)) (Ord. 181-6-83, passed 6-6-83; Am. Ord. 605-04-09, passed 4-20-09)

SMOKE DETECTORS**§ 151.35 REQUIREMENT.**

It shall be the responsibility of the owner of each new and existing rental unit within the City to install smoke detectors in each such rental unit as is herein-after provided. Smoke detectors shall be capable of sensing visible particles of combustion and providing a suitable audible alarm thereof; further, they shall be installed by the first day of adoption, in the manner hereinafter provided and thereafter maintained in working order in compliance with this subchapter. Failure to install smoke detectors as is required under this subchapter will subject the owner of any such rental unit to the penalties set forth.

('88 Code, Title VIII, Ch. 100, § 8.71) (Ord. 173-6-82, passed 6-7-82; Am. Ord. 605-04-09, passed 4-20-09)
Penalty, see § 151.99

Cross-reference:

Fire prevention regulations, see Ch. 96

§ 151.36 DEFINITIONS.

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

CODE OFFICIAL. The Fire Marshal of the City of Big Rapids, or in his absence an interim Fire Marshal designated by the City Manager to administer and enforce the International Property Maintenance Code, the Housing Law of Michigan, or the Housing Maintenance Certificates in Chapter 151.

OWNER. The person who holds legal title to the premises. However, should a land contract be in existence and recorded with the County Register of Deeds, or should an affidavit or memorandum as to the existence of land contract be recorded with the County Register of Deeds, then the land contract purchaser shall be considered the "owner" for purposes of this subchapter. ('88 Code, Title VIII, Ch. 100, § 8.73(3))

RENTAL UNIT. Any residence, apartment, flat, motel room, hotel room, boarding room, or boarding house and the like, for which consideration is paid by one person to another for use or occupancy thereof.

SLEEPING AREA. The area or areas of the family living unit in which the bedrooms or sleeping

rooms are separated by other use areas, such as kitchens or living rooms, but not bathrooms or closets, they shall be considered as separate sleeping areas for the purposes as this subchapter. ('88 Code, Title VIII, Ch. 100, § 8.73(1))

('88 Code, Title VIII, Ch. 100, § 8.72)

(Ord. 173-6-82, passed 6-7-82; Am. Ord. 605-04-09, passed 4-20-09)

§ 151.37 INSTALLATION.

(A) General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the International Fire Code.

(B) Smoke alarms. Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

(1) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

(2) In each room used for sleeping purposes.

(3) In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single or multiple-station smoke alarms shall be installed in other groups in accordance with the International Fire Code.

('88 Code, Title VIII, Ch. 100, § 8.73) (Ord. 173-6-82, passed 6-7-82; Am. Ord. 605-04-09, passed 4-20-09)
Penalty, see § 151.99

§ 151.38 ALTERNATIVE.

As an alternative to self-contained smoke detectors, an approved fire detection system may be installed and maintained. Each fire detection system must be individually approved.

('88 Code, Title VIII, Ch. 100, § 8.74) (Ord. 173-6-82, passed 6-7-82; Am. Ord. 605-04-09, passed 4-20-09)

§ 151.39 CONFORMANCE.

All devices, combinations of devices, and equipment required herein must be installed in conformance with this subchapter.

('88 Code, Title VIII, Ch. 100, § 8.75) (Ord. 173-6-82, passed 6-7-82; Am. Ord. 605-04-09, passed 4-20-09) Penalty, see § 151.99

§ 151.40 CHANGE OF OCCUPANCY.

After a change of occupancy of every dwelling unit in the City, occasioned by or incidental to a sale, lease or sublease of a rental unit, it shall be the duty of the grantor thereof (i.e., the seller, lessor or sublessor, as the case may be) to certify in writing before occupancy, to the now occupant that all smoke detectors as required by this subchapter are installed and in proper working condition. Failure to comply with this section shall be punishable as a misdemeanor as is provided in § 151.99(A) and shall be evidence of the negligence of or inattention of the grantor. This section shall not, however, render any lease or contract or sublease void for failure to have certification required hereby.

('88 Code, Title VIII, Ch. 100, § 8.76) (Ord. 173-6-82, passed 6-7-82; Am. Ord. 605-04-09, passed 4-20-09) Penalty, see § 151.99

§ 151.41 POWER SOURCE.

(A) Battery type smoke detectors may be used provided that the batteries mount to assure that the following conditions are met:

(1) All power requirements are met for at least one year's life, including weekly testing.

(2) A distinctive audible trouble signal is given before the battery is incapable of operating (from aging, terminal corrosion and the like) the device(s) for alarm purposes.

(3) For a unit employing a lock-in alarm feature, automatic transfer is provided from alarm to a trouble condition.

(4) The unit is capable of producing an alarm signal for at least four minutes at the battery voltage at which a trouble signal is normally obtained followed by seven days of trouble signal operation.

(5) The audible trouble signal is produced at least once every minute for seven consecutive days.

(6) The monitored batteries meeting these specifications are clearly identified on the unit near the battery compartment.

(B) Electric plug-in smoke detectors may be used and operated from a wall plug provided that the plug is fitted with a plug restraining device and provided that the wall outlet power supply is not controlled by a switch other than the main power supply.

('88 Code, Title VIII, Ch. 100, § 8.77) (Ord. 173-6-82, passed 6-7-82; Am. Ord. 605-04-09, passed 4-20-09) Penalty, see § 151.99

§ 151.42 TAMPERING.

Anyone tampering or interfering with the effectiveness of a smoke detector shall be in violation of this subchapter.

('88 Code, Title VIII, Ch. 100, § 8.78) (Ord. 173-6-82, passed 6-7-82; Am. Ord. 605-04-09, passed 4-20-09) Penalty, see § 151.99

§ 151.99 PENALTY.

Any person, firm, or corporation who violates any housing regulation in Title XV, Chapter 151, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions of the adopted IPMC 2018, shall be deemed a separate offense.

('88 Code, Title VIII, Ch. 99, § 8.22) (Ord. 205-6-85, passed 6-3-85; Am. Ord. 399-11-95, passed 11-20-95; Am. Ord. 427-10-97, passed 10-6-97; Am. Ord. 605-04-09, passed 4-20-09)

CHAPTER 152: FLOOD DAMAGE PREVENTION

Section		
152.01	Flood hazard area construction	adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code. (Ord. 685-01-15, passed 1-20-15)
152.02	Enforcing agency; designation of regulated flood hazard areas	
152.99	Penalty	

§ 152.01 FLOOD HAZARD AREA CONSTRUCTION.

The Flood Hazard Area Construction regulations of the City are included as part of the Zoning Ordinance and are adopted by reference as part of the Zoning Ordinance in Chapter 154.
(Ord. 268-3-89, passed 3-6-89) Penalty, see § 152.99

§ 152.99 PENALTY.

Any person who violates any flood damage prevention regulation in Title XV, Chapter 152, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97.
(Ord. 427-10-97, passed 10-6-97)

§ 152.02 ENFORCING AGENCY; DESIGNATION OF REGULATED FLOOD HAZARD AREAS.

(A) *Agency designated.* Pursuant to the provisions of the State Construction Code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of the County of Mecosta designated as the enforcing agency to discharge the responsibility of the City of Big Rapids under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The County of Mecosta assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the City.

(B) *Code Appendix enforced.* Pursuant to the provisions of the State Construction Code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the jurisdiction of the City.

(C) *Designation of regulated flood prone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled "Mecosta County, Michigan (All Jurisdictions)" and dated 2/4/2015 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26107C, 0134C, 0151C, 0153C, 0154C, 0161C, and 0162C dated 2/4/2015 are

CHAPTER 153: LAND DIVISION, PLAT REVIEW AND LOT SPLIT

Section

153.01	Short title
153.02	Definitions
153.03	Exemptions to platting requirements
153.04	Procedure for review of subdivision plats
153.05	Site condominiums
153.06	Development design standards
153.07	Fees
153.99	Penalty

§ 153.01 SHORT TITLE.

This chapter shall be known as the “Land Division, Plat Review and Lot Split Ordinance” of the City, and is adopted pursuant to the authorization of Act 288 of the Public Acts of 1967, as amended. (Ord. 496-7-02, passed 7-15-02)

§ 153.02 DEFINITIONS.

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

ACCESSIBLE. A parcel which has an area where a driveway or public easement provides vehicular access to an existing road or street and meets all applicable location standards of the State, County and City or has an area where a driveway or proposed public easement can provide vehicular access to an existing road or street and meet all applicable location standards.

ALLEY. A public or private right-of-way shown on a plat which provides secondary access to a lot, block, or parcel of land.

CAPTION. The name by which the plat is legally and commonly known.

CITY. The City of Big Rapids.

CITY COMMISSION. The elected legislative body of the City of Big Rapids.

CITY MANAGER. The person appointed to the Office of City Manager by the City Commission.

DEVELOPMENT DESIGN STANDARDS. Standards and specifications for construction and installation of improvements as established and administered by the City.

DEVELOPMENT SITE. Any parcel or lot on which exists or which is intended for building development.

DIVISION. The partitioning or splitting of a parcel or tract of land by the proprietor or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Land Division Act, Act 288 of the Public Acts of 1967, as amended.

ENGINEER. A civil engineer who is a professional engineer licensed under Article 20 of the Occupational Code, Act 299 of the Public Acts of 1980, being Sections 339.2001 to 339.2014 of the Michigan Compiled Laws.

EXEMPT SPLIT. The partitioning or splitting of a parcel or tract of land by the proprietor or by his or her heirs, executors, administrators, legal representatives, successors, or assigns that does not result in one or more parcels of less than 40 acres or the equivalent. A property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel.

FLOODPLAIN. That area of land adjoining the channel of a river, stream, water course, lake, or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.

FORTY ACRES OR EQUIVALENT. Forty acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

HEALTH DEPARTMENT. The State's Department of Environmental Quality or District Health Department No. 10, Mecosta County Offices.

IMPROVEMENTS. Street construction and surfacing, curb and gutter, water mains, storm and sanitary sewers, sidewalks, walkways, graded outlaws and bridges or culverts.

LAND DIVISION ACT. Act 288 of the Public Acts of 1967, as amended; the Act that regulates the division of land in the State of Michigan.

LAND USE PLAN. Big Rapids 2010: A Comprehensive Community Development Plan adopted by the City Planning Commission as specified in Act 285 of the Public Acts of 1931, as amended.

LOT. A measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

MUNICIPALITY. A township, city, or village.

OUTLOT. A lot within the boundary of a recorded plat set aside for purposes other than a development site, park or other land dedicated to public use or reserved to private use.

PARCEL. A continuous area or acreage of land.

PARENT PARCEL OR PARENT TRACT. A parcel or tract lawfully in existence on March 31, 1997.

PLANNER. The person employed by the City as its City Planner or the Planning Consultant designated by the City to provide planning services.

PLANNING COMMISSION. A board appointed by the City Commission with responsibilities for the development of regulations governing the subdivision of land and review of proposed plats as outlined in Sections 14 and 15 of the Municipal Planning Act, Act 285 of the Public Acts of 1931, as amended.

PLAT. A map or chart of a subdivision of land.

PRELIMINARY PLAT. A map showing the prominent features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.

PROPRIETOR. A natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

PUBLIC SEWER. A sewerage system as defined in Section 4101 of Part 41 (Sewerage Systems) of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, being Section 324.4101 of the Michigan Compiled Laws.

PUBLIC UTILITY. All persons, firms, corporations, copartnerships, or municipal or other public authority providing gas, electricity, water, steam, telephone, sewer, or other services of a similar nature.

PUBLIC WATER. A system of pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes, and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water to the public for household or drinking purposes.

REPLAT. The process of changing, or the map or plat that changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

SUBDIVIDE OR SUBDIVISION. The partitioning or splitting of a parcel or tract of land by the proprietor or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act.

SURVEYOR. A professional surveyor licensed under Article 20 of the Occupational Code, Act 299 of the Public Acts of 1980, being Sections 339.2001 to 339.2014 of the Michigan Compiled Laws.

TOPOGRAPHICAL MAP. A map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

TRACT. Two or more parcels that share a common property line and are under the same ownership.

ZONING BOARD OF APPEALS (ZBA). A board appointed by the City Commission having authority to hear appeals of administrative decisions, to interpret zoning text and the zoning map, and to decide on variance requests.

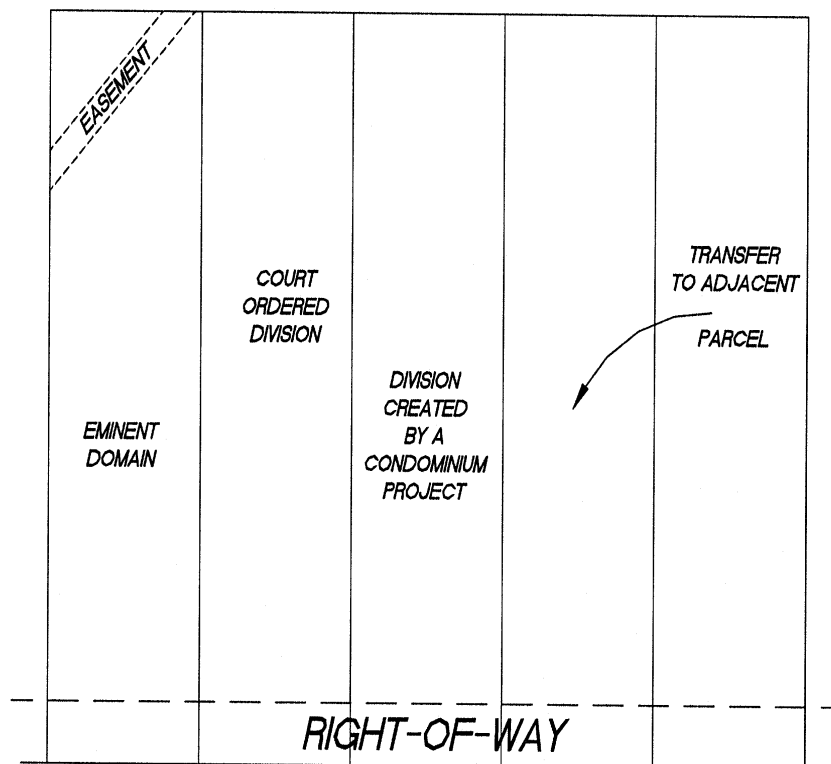
(Ord. 496-7-02, passed 7-15-02; Am. Ord. 655-1-13, passed 1-22-13)

§ 153.03 EXEMPTIONS TO PLATTING REQUIREMENTS.

There are three categories of procedures for making changes in property boundaries that do not deal with platting; exempt splits, land divisions and parcel combinations. This Section identifies each of these categories.

(A) *Exempt splits.* The following are splits of property that are exceptions to the platting requirements as outlined in the Land Division Act, or by other acts or court decisions (see illustration). The provisions of this Ordinance shall not circumvent the platting requirements of the Act.

LAND DIVISIONS NOT SUBJECT TO PLATTING REQUIREMENTS



(1) Easements.

(2) A splitting of property created as a result of acquisition of a portion of a parcel through eminent domain or a voluntary conveyance to an entity with eminent domain powers.

(3) A splitting of property created as a result of a court order.

(4) A splitting of property created by a condominium project.

(5) Transfers between adjacent unplatted parcels so long as the resulting parcels are accessible.

(6) Lease of residential apartments or commercial space in a shopping center, provided the lease does not include land.

(7) Leases of less than one year.

(8) Options to buy property.

(9) Mortgage or mortgage foreclosures.

(10) Condemnations.

(11) Sheriff sales.

(12) A splitting of property that creates a parcel 40 acres or greater, referred to in the Land Division Act as an "exempt split".

(B) *Land Divisions.* A process for local municipalities to review the dividing of property into two or more parcels when that division is not exempt from the Land Division Act as identified in division (A) above and the number of divisions proposed do not require the more extensive subdivision plat review process. The right to make divisions exempt from the platting requirements of the Land Division Act can be transferred but only from a parent parcel or parent tract to a parcel created from that parent parcel or parent tract. The purpose of this Section is to identify when a proposed division of land requires review and approval through the land division process, outline the approval process, detail criteria necessary for approval, review building permit requirements, and provide for an appeals process.

(1) *When is Land Division Approval required.* Land division approval is required when dividing unplatted property into two or more parcels, the division is not exempt from the Land Division Act as identified in division (A) above and

the number of divisions proposed, together with any previous divisions of the same parent parcel or parent tract, does not exceed those allowed by Section 108 of the Land Division Act, Act 288 of the Public Acts of 1967, as amended.

(2) *Approval process.*

(a) *Information required.* Information required by the applicant for land division approval shall include:

1. A completed "Land Division Application" provided by the City.

2. An adequate and accurate legal description of all parcels resulting from the proposed division, including the remainder of the parent parcel or parent tract.

3. A survey, map or drawing of the proposed division.

4. The fee established by the City Commission for review of land divisions.

(b) *Submission and review.*

1. Application and fee shall be submitted to the City Clerk or designee.

2. The City Assessor or designee shall review for compliance with the Land Division Act and this chapter. The City Assessor or designee shall be responsible for determining if the applicant has provided an adequate and accurate legal description and an adequate survey, map or drawing, if the proposed division meets the four to one maximum parcel depth to width ratio, if the applicant possesses division rights equal to the number of divisions desired, and if the divisions do not exceed the maximum number of land divisions allowed as outlined in division (B)(1) above of this section.

3. The City Engineer and Public Works Director shall review for compliance with adopted departmental standards and ordinances. The City Engineer and Public Works Director shall be responsible to determine if the parcel is accessible and has adequate easements for public utilities.

4. The Department of Community Development shall review for compliance with the City's Zoning Ordinance and Land Use Plan. The Zoning Administrator shall review to determine

compliance with parcel width and parcel area requirements.

5. Within 45 days of receipt of a complete application for land division approval, the City Assessor or designee shall approve or deny the land division request. In the case of denial, the City Assessor or designee shall identify in writing the basis for denial of the request. The basis for denial shall be non-compliance with one of the standards for approval outlined in division (B)(3) below of this section.

(3) *Criteria for approval.*

(a) All proposed land divisions must comply with all of the following criteria in order to be approved. The following shall be the basis for approval of a land division request.

1. Each parcel (including the remainder of the parent parcel or parent tract) shall have an adequate and accurate legal description and shall be shown on a survey, map or drawing, drawn to scale, which shows the area of each parcel, parcel lines, dimensions, setbacks, public utility easements, rights-of-way, accessibility and any other information that is necessary to determine compliance with the criteria for approval.

2. Each parcel ten acres or less in size shall have a depth not more than four times its width unless a variance from this requirement is granted by the ZBA. For the purpose of this criterion, the definition of lot (parcel) width in Article 2 of the City of Big Rapids Zoning Ordinance shall be used. For the purpose of this criterion, depth shall be defined as the mean distance from the front street lot (parcel) line to the rear lot (parcel) line as defined in Article 2 of the City of Big Rapids Zoning Ordinance. The depth to width ratio requirements shall not apply to the remainder of the parent parcel or parent tract retained by the proprietor.

3. Each parcel shall comply with the minimum parcel width, maintained to the minimum lot depth, for the zoning district in which it is located unless a variance is granted by the ZBA.

4. Each parcel shall comply with the minimum parcel area for the zoning district in which it is located unless a variance is granted by the ZBA.

5. Each parcel is accessible as defined in this chapter.

6. The request complies with the limitation on the maximum number of divisions allowed per parent parcel or parent tract as outlined in division (B)(1) of this section and Section 108 of the Land Division Act, Act 288 of the Public Acts of 1967, as amended.

7. Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.

(b) The Zoning Board of Appeals (ZBA) may grant a variance from the minimum parcel area, minimum parcel width or maximum parcel depth to width ratio upon a finding of practical difficulty as defined in Section 13.6 of the City of Big Rapids Zoning Ordinance.

(4) *Building permit requirements.* Approval of a land division neither implies the resulting parcels are buildable, nor a determination that the resulting parcels comply with other City ordinances or regulations. In order to build on a parcel, the property must also comply with the State's Building Code, the City's Zoning Ordinance, and all other applicable City ordinances. In addition, any parcel resulting from a division that is less than one acre in size shall not be issued a building permit unless the parcel has both of the following:

(a) Public water or district health department approval for the suitability of an on-site water supply.

(b) Public sewer or district health department approval for the suitability of an on-site sewage disposal.

(5) *Appeals.* Any applicant aggrieved by a decision of the City Assessor or designee on a land division request may appeal the decision to the ZBA by submitting the required application and fee to the Zoning Administrator. If an appeal is filed, the City Assessor or designee shall transmit the file on the request being appealed to the ZBA.

(C) *Parcel combinations.* Any combination of existing parcels into a single parcel that does not involve a land division or lot split as defined in this chapter, upon the written request of the proprietor, shall be approved by the City Assessor or designee, provided the proposed new parcel complies with the minimum parcel area and parcel width requirements of the City's Zoning Ordinance. Absent a written request, the Assessing authority shall send a notice of intent to combine parcels to the proprietor.

Permission shall be considered obtained if there is no negative response within 30 days following the notice of intent.

(Ord. 496-7-02, passed 7-15-02; Am. Ord. 762-07-20, passed 7-20-20)

§ 153.04 PROCEDURE FOR REVIEW OF SUBDIVISION PLATS.

The purpose of this section is to outline the procedures to be followed for review of a subdivision plat, the information required, the standards for approval and the responsibilities of the various City departments and boards in the review and approval process.

(A) *Pre-Preliminary Plat Review (Proprietor's Option).*

(1) *Purpose.* The purpose of the pre-preliminary plat review is to allow the proprietor, at their option, to present a conceptual representation of the entire proposed subdivision to the City for information and feedback. The City is not required to vote to approve or reject, but can give the proprietor their preliminary recommendations on the proposed subdivision. Recommendations at this stage shall not infer approval at later stages of the subdivision process.

(2) *Information required on the Pre-Preliminary Plat.* The proprietor shall include the following:

- (a) Proprietor's name and address;
- (b) Parcel number of the property;
- (c) Location and position map, including Section, Town and Range;
- (d) Property boundary;
- (e) Existing contours shown at two-foot intervals;
- (f) Existing natural features (wooded areas, drainage, floodplain, wetlands, open water, streams, etc.);
- (g) Street layout;
- (h) Lot area and lot dimensions (each lot and outlot shall be accessible as defined in this chapter);
- (I) Existing easements;

(j) General proposed utility information;

(k) General proposed plan to control storm/surface water;

(l) Zoning of the property within the enclosed plat;

(m) Adjacent property and land use;

(n) Proposed phases.

(3) *Submission and review process.*

(a) The proprietor shall submit a minimum of five copies of a complete pre-preliminary plat, a completed application and the required fee to the City Clerk.

(b) Upon receipt, the City Clerk or designee shall submit copies of the pre-preliminary plat to members of the City Planning Commission and shall make one copy available to each of applicable departments or offices, who shall review the pre-preliminary plat and provide written comments to the Planning Commission at least one week prior to the meeting where the pre-preliminary plat will be reviewed.

(c) The Planning Commission shall review the pre-preliminary plat and the comments from City staff and shall provide comments on the plat back to the proprietor within 45 days of the filing of the complete pre-preliminary plat with the City Clerk.

(B) *Preliminary plat for tentative approval.*

(1) *Purpose.* The purpose of the preliminary plat tentative approval is to provide the proprietor with tentative City approval prior to seeking additional jurisdictional agency approvals. All items required for final approval of the preliminary plat shall be provided at this step, with the exception of the approvals from other jurisdictional agencies.

(2) *Information required on the preliminary plat for tentative approval.* The proprietor shall, in compliance with the requirements of the Land Division Act and this chapter, include but is not limited to the following:

(a) All items required for pre-preliminary plat review as outlined in division (A)(2) above of this section;

(b) Name, address, and phone number of the developer and surveyor or engineer that prepared the plat;

(c) Name of the proposed development;

(d) Names of abutting subdivisions or site condominiums;

(e) Survey of the property and legal description.

(f) Street names, rights-of-way, right-of-way widths and typical road cross-sections. Bridges and culverts as determined necessary;

(g) Required zoning setbacks. On corner lots, the front of the lots shall be clearly identified. Minimum frontage requirements shall be verified at the setback line;

(h) Utility layout including connections to existing systems, pipe sizes (storm sewer size can be estimated), fire hydrant locations, sufficient sanitary and storm sewer inverts to ensure adequate depth, storm detention/retention areas, storm sewer outlets and any proposed utility easements. Drainage calculations are not required at this stage;

(i) Proposed drainage should be indicated either by proposed contours or by drainage arrows. Drainage arrows should be sufficient to show preliminary drainage direction of the entire development;

(j) All floodplain areas regulated by the Michigan Department of Environmental Quality (MDEQ);

(k) All wetland areas regulated by the Michigan Department of Environmental Quality (MDEQ);

(l) All parcels of land proposed to be dedicated to public use and conditions of such dedication;

(m) Date and north arrow;

(n) Complete language for any and all deed restrictions, or statement that none are proposed;

(o) Other related data as the City Commission deems necessary.

(3) *Submission and review process.*

(a) The proprietor shall submit a minimum of five copies of a complete preliminary plat, a completed application and the required fee to the City Clerk.

(b) Upon receipt, the City Clerk or designee shall submit copies of the preliminary plat to members of the City Planning Commission and shall make one copy available to each of applicable departments or offices, who shall review the preliminary plat and provide written comments to the Planning Commission at least one week prior to the meeting where the preliminary plat will be considered.

(c) The Planning Commission shall consider the preliminary plat at the first meeting of the Board held at least 15 days after the filing of the complete preliminary plat with the City Clerk.

(4) *Planning Commission review of the preliminary plat for tentative approval.*

(a) Prior to making a recommendation on the preliminary plat, the Planning Commission shall hold a public hearing. Notice of the hearing shall contain the date, time and place of the hearing, and shall be sent by mail, at least ten days prior to the hearing date, to the proprietor and owners of land within 300 feet of the proposed subdivision.

(b) The preliminary plat and all required accompanying data shall be reviewed, in accord with sound engineering practices, by the Planning Commission for the purpose of determining its compliance with the Land Division Act, the specifications of this chapter, the City's Land Use Plan, Zoning Ordinance, Development Design Standards and other applicable City ordinances.

(c) The Planning Commission shall submit to the City Commission a written recommendation concerning the preliminary plat within 60 days of the filing of the complete preliminary plat with the City Clerk. The Planning Commission shall either:

1. Recommend tentative approval of the preliminary plat; or,

2. Set forth reasons for not recommending tentative approval of the preliminary plat and the requirements for tentative approval.

(5) *City Commission review of the preliminary plat for tentative approval.*

(a) The City Commission, prior to making a determination, shall consider all pertinent information, including not only the preliminary plat and accompanying data submitted by the proprietor, but also the written comments of City staff and the recommendation of the City Planning Commission.

(b) The City Commission shall make a determination regarding the preliminary plat within 90 days of the filing of the complete preliminary plat with the City Clerk. The City Commission shall either:

1. Tentatively approve the preliminary plat and note its approval on the copy of the preliminary plat to be returned to the proprietor, with or without conditions; or,

2. Reject the preliminary plat, setting forth in writing its reasons for rejection and the requirements for tentative approval.

3. The City Commission's tentative approval shall be valid for one year from the date of the meeting where such approval was granted. Upon application by the proprietor to the City Commission, prior to the tentative approval expiration date, the City Commission may extend such approval for an additional one year. The tentative approval of a preliminary plat, once expired, shall require the proprietor to resubmit a preliminary plat.

(C) *Preliminary Plat for final approval*

- (1) *Purpose.* The purpose of the preliminary plat final approval is to ensure that all applicable authorities have granted approval to the preliminary plat and to review any changes made to the plat after tentative approval was given by the City. The proprietor shall not proceed with any construction work on the proposed subdivision, including grading, until they have obtained from the City Commission the final approval of the preliminary plat of the proposed subdivision.

- (2) *Information required on the preliminary plat for final approval.* All items required on the preliminary plat for tentative approval as outlined in division (B)(2) above are required on the preliminary plat for final approval.

- (3) *Submission and review process.*

- (a) The City Clerk shall schedule for City Commission consideration, final approval of the preliminary plat upon receipt from the proprietor of

a complete preliminary plat, as well as approved copies of the preliminary plat from the following agencies as applicable:

1. Mecosta County Road Commission (if the proposed subdivision includes or abuts roads under the Road Commission's jurisdiction);

2. Mecosta County Drain Commissioner (if the proposed subdivision drains into a County drain);

3. Michigan Department of Transportation (if any of the proposed subdivision includes or abuts a state trunk line highway, or includes streets or roads that connect with or lie within the right-of-way of state trunk line highways);

4. Michigan Department of Natural Resources (if the land proposed to be subdivided abuts a lake or stream, or abuts an existing or proposed channel or lagoon affording access to a lake or stream where public rights may be affected);

5. Michigan Department of Environmental Quality (if any of the subdivision lies wholly or in part within the floodplain of a river, stream, creek, or lake);

6. District Health Department No. 10, Mecosta County Offices (if public water and public sewers are not available and accessible to the land proposed to be subdivided).

- (b) In addition, the proprietor shall provide copies of cover letters showing that two copies of the preliminary plat were sent to the Mecosta County Plat Board, to all public utilities serving the City, and to any school boards with schools located within the City for informational purposes.

- (4) *City Commission review of the preliminary plat for final approval.*

- (a) The City Commission shall make a determination regarding the preliminary plat at its next regularly scheduled meeting or within 20 days of the submission of the complete preliminary plat to the City Clerk. The City Commission shall either:

1. Approve the preliminary plat, with or without conditions; or,

2. Reject the preliminary plat, setting forth in writing its reasons for rejection and the requirements for final approval.

(b) The City Commission shall instruct the City Clerk to notify the proprietor of approval or rejection in writing, and if rejected to give the reasons.

(c) The City Clerk shall note all proceedings in the minutes of the meeting and the minutes shall be open for inspection.

(d) The City Commission's final approval shall be valid for two years from the date of the meeting where such approval was granted. Upon application by the proprietor to the City Commission, prior to the final approval expiration date, the City Commission may extend such approval for an additional one year. The final approval of a preliminary plat, once expired, shall require the proprietor to resubmit a preliminary plat.

(D) *Survey and monumentation.*

(1) For every subdivision of land there shall be a survey complying with the requirements of Sections 125 and 126 of the Land Division Act, Act 288 of the Public Acts of 1967, as amended.

(2) Prior to submission of a final plat to the City, the proprietor shall have a surveyor place survey monuments in the plat as required by Section 125 of the Land Division Act, Act 288 of the Public Acts of 1967, as amended. As provided by Section 125, the City Commission may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the City Clerk cash, certified check, or irrevocable bank letter of credit running to the City, whichever the proprietor selects, in an amount not less than \$25 per monument and not less than \$100 in total, except that lot corner markers shall be at the rate of not less than \$10 per marker. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the proprietor defaults, the City Commission shall promptly require a surveyor to locate the monuments and markers in the ground as certified on the plat, at a cost not to exceed the amount of the security deposited and shall pay the surveyor.

(E) *Improvements construction plans approval.*

(1) *Construction plans approval.* It shall be the responsibility of the proprietor of every proposed subdivision prior to final plat approval to have prepared by a professional engineer registered in the State of Michigan, a complete set of construction plans, including profiles, cross-sections, specifications, and other supporting data, for the required streets, utilities and other improvements. Such construction plans shall be based on preliminary plans that have been approved with the preliminary plat. Construction plans are subject to approval by the responsible public agencies. All construction plans shall be prepared in accordance with the standards or specifications contained or referenced in this chapter, with the City's Development Design Standards and with standards adopted by the responsible public agency.

(2) *Inspection.* A qualified inspector with applicable certification as determined by the City Manager shall inspect the installation of all improvements. The City Commission shall select the inspector. The proprietor shall be responsible for all inspection costs.

(3) *As-built drawings.* Upon completion of the construction of all required streets, utilities and other improvements, the as-built drawings shall be verified by a Professional Engineer registered in the State of Michigan.

(F) *Final plat approval.*

(1) *Purpose.* The purpose of the final plat approval is to ensure that the site and its related improvements were developed in accordance with the final approved preliminary plat, approved construction plans and any conditions required by the City Commission. No person shall enter into any contract for the sale of, or shall offer to sell said subdivision or any part thereof until final plat approval has been obtained and the proprietor has completed construction of all improvements or has bonded with the City for the cost of the improvements.

(2) *Information required on the final plat.* The proprietor shall, in compliance with the requirements of the Land Division Act and this chapter, submit the following:

(a) Five copies of a complete final plat prepared in accordance with the Land Division Act, accompanied by an electronic copy in a format

acceptable to the City; with all of the certificates required in Section 142 of the Land Division Act, Act 288 of the Public Acts of 1967, as amended;

(b) Abstract of Title, Policy of Title Insurance or Attorney's Opinion of Title;

(c) A complete set of construction plans, including profiles, cross-sections, specifications, and other supporting data, for the required streets, utilities and other improvements with applicable agency approvals;

(d) As-built profile and cross-section notes of each street with grades; as-built profile of sanitary and storm sewer with sizes and grades; and a plan of the water lines with sizes and appurtenances in accordance with the City's Development Design Standards and this chapter;

(e) An agreement with the City containing a restriction upon the plat whereby the Building Inspector will not be permitted to issue a building permit for any structure upon any lot within said subdivision until the improvements as specified herein have been completed, or satisfactory arrangements have been made with the City for the completion of said improvements. These plat restrictions shall be made a part of all deeds or contracts for any lot within the subdivision;

(f) Plat restrictions, if the proprietor proposes such restrictions, shall be submitted, with the final plat. Such restrictions shall not be in contradiction to the City's Zoning Ordinance or any other ordinance of the City. These restrictions shall become a part of the final plat and shall be recorded along with the plat in the Office of the Mecosta County Register of Deeds.

(3) *Submission and review process.*

(a) The proprietor shall submit all items as outlined in division (F)(2) above, with the required fees to the City Clerk.

(b) Upon receipt, the City Clerk shall submit copies of the final plat to members of the City Commission and shall make one copy available to each of applicable departments or offices. In addition, the Department of Engineering and Municipal Utilities shall receive in an electronic format acceptable to the City, as-built drawings for all streets, utilities and other required improvements, or a complete set of construction plans for those improvements not yet in place. All departments shall review the final plat and provide

written comments to the City Commission at least one week prior to the meeting where the final plat will be considered.

(4) *City Commission review of the final plat.*

(a) Upon receipt of the final plat and all required accompanying materials, the City Commission shall make a determination regarding the final plat at its next regularly scheduled meeting or within 20 days of the submission of the complete final plat to the City Clerk. The City Commission shall either approve or reject the final plat.

(b) If the final plat is rejected, the City Commission shall instruct the City Clerk to give the reasons for the rejection in writing and return the plat to the proprietor. The proprietor shall, within a reasonable time, resubmit to the City Commission any changes or alterations stipulated by the Commission.

(c) Final plat approval shall be granted by the City Commission provided the following:

1. The proprietor has submitted the necessary construction plans, as required by this chapter, and the plans have been checked and approved for compliance with the City's Development Design Standards. Construction plans shall be checked and approved by the City or other agencies with authority to approve the subdivision improvements.

2. The proprietor has installed all improvements including survey monuments and the City Commission has accepted such improvements. The proprietor, at the sole discretion of the City, may post a bond of a type and amount acceptable by the City for the cost of installation of the improvements or for the cost of completing construction of the specific public improvement, including contingencies. The term length in which the bond is in force shall be for a period to be specified by the City Commission. The bond shall be:

- a. A non-revocable letter of credit issued by a bank or such other agency acceptable to the City Commission; or,

- b. A cash bond issued by a surety company authorized to do business in the State of Michigan and acceptable to the City Commission. The escrow agreement shall be drawn and furnished by the City.

3. The proprietor has submitted as-built drawings for all of the completed improvements and the City has determined that such drawings are consistent with the improvements proposed for the final plat.

(d) Upon approval of the final plat, the City Clerk shall, in accordance with the Land Division Act, certify on the plat the City's approval, and forward the plat (five copies), agreements, restrictions and fees to the Mecosta County Plat Board.

(e) The City Clerk shall note all proceedings in the minutes of the meeting and the minutes shall be open for inspection.

(G) *Variance from the provisions of this section.* Variances from the provisions contained in this section may be granted by the City Commission subject to the following:

(1) A petition for any such variance shall be submitted in writing by the proprietor to the City Commission at the time the City Commission reviews the preliminary plat for tentative approval. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

(2) If the proprietor can clearly demonstrate that literal enforcement of this section will impose practical difficulties because of unique circumstances pertaining to his or her land, the City Commission may permit such variance or variances as, in its sound discretion, it believes to be reasonable and within the general purpose and policy of this chapter.

(3) In making the findings required in division (G)(4) below, the City Commission shall consider the location and condition of the proposed subdivision, the nature of the proposed variance as compared with the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed variance as compared with the existing use of land in the vicinity.

(4) No variance shall be granted unless the City Commission finds:

(a) There are special circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land.

(b) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(c) The granting of the variance will not be detrimental to the public welfare or be injurious to property in the vicinity of the proposed subdivision.

(H) *Corrections or changes to an approved plat.* Corrections or changes to an approved plat shall be made only when in accordance with the Land Division Act and this chapter. The process required shall be dependent upon the type of correction or change proposed and achieved by means of the following:

(1) An affidavit from the surveyor who certified the plat.

(2) By order of the Circuit Court.

(3) By action of the City Commission.

(I) *Replats* A replat of all or a portion of a recorded subdivision plat may occur using the conventional platting process only after a plat or portion of a plat to be replatted has been vacated by court action, with the following exceptions:

(1) All owners of the lots involved in the replat:

(a) Agree to the replat in writing and record the agreement with the Mecosta County Register of Deeds;

(b) Provide notice of their intention to replat to abutting property owners by certified mail;

(c) Request the City Commission adopt an ordinance vacating any areas dedicated to public use.

(2) Assessor's plats.

(3) Urban Renewal Plats.

(J) *Lot splits.* A "lot split" is any division of an existing platted lot. These divisions of lots may be recombined to create parcels of various sizes and configurations as an alternative to replatting. The purpose of this section is to identify when a proposed splitting of a lot requires review and approval through the lot split process, outline the approval process, detail criteria necessary for approval, review building permit requirements, and provide for an appeals process.

(1) *When is lot split approval required.* Lot split approval is required for any alteration of an existing platted lot or when dividing any platted property into two or more parcels and the number of splits proposed, together with any previous splits, does not exceed those permitted by Section 263 of the Land Division Act, Act 288 of the Public Acts of 1967, as amended.

(2) *Approval process.*

(a) *Information required.* Information required by the applicant for lot split approval shall include:

1. A completed "Lot Split Application" provided by the City.

2. An adequate and accurate legal description of all parcels resulting from the proposed split, including the remainder of the original parcel.

3. A survey, map or drawing of the proposed split.

4. The fee established by the City Commission for review of lot splits.

(b) *Submission and review.*

1. Application and fee shall be submitted to the City Clerk or designee.

2. The City Assessor or designee shall review for compliance with the Land Division Act and this chapter. The City Assessor or designee shall be responsible for determining if the applicant has provided an adequate and accurate legal description and an adequate survey, map or drawing, if the proposed split meets the four to one maximum parcel depth to width ratio, and if the splits do not exceed the maximum number of splits permitted as outlined in division (J)(1) above.

3. The City Engineer and Public Works Director shall review for compliance with adopted departmental standards and ordinances. The City Engineer and Public Works Director shall be responsible to determine if the parcel is accessible and has adequate easements for public utilities.

4. The Department of Community Development shall review for compliance with the City's Zoning Ordinance and Land Use Plan. The Zoning Administrator shall review

to determine compliance with parcel width and parcel area requirements.

5. Within 45 days of receipt of a complete application for lot split approval, the City Assessor or designee shall approve or deny the lot split request. In the case of denial, the City Assessor or designee shall identify in writing the basis for denial of the request. The basis for denial shall be non-compliance with one of the standards for approval outlined in division (J)(3) below.

(3) *Criteria for approval.*

(a) All proposed lot splits must comply with all of the following criteria in order to be approved. The following shall be the basis for approval of a lot split request:

1. Each parcel (including the remainder of the original parcel) shall have an adequate and accurate legal description and shall be shown on a survey, map or drawing, drawn to scale, which shows the area of each parcel, parcel lines, dimensions, setbacks, public utility easements, rights-of-way, accessibility and any other information that is necessary to determine compliance with the criteria for approval.

2. Each parcel ten acres or less in size shall have a depth not more than four times its width unless a variance from this requirement is granted by the ZBA. For the purpose of this criterion, the definition of lot (parcel) width in Article 2 of the City of Big Rapids Zoning Ordinance shall be used. For the purpose of this criterion, depth shall be defined as the mean distance from the front street lot (parcel) line to the rear lot (parcel) line as defined in Article 2 of the City of Big Rapids Zoning Ordinance.

3. Each parcel shall comply with the minimum parcel width, maintained to the minimum lot depth, for the zoning district in which it is located unless a variance is granted by the ZBA.

4. Each parcel shall comply with the minimum parcel area for the zoning district in which it is located unless a variance is granted by the ZBA.

5. Each parcel shall comply with the minimum setback requirements for the zoning district in which it is located unless a variance is granted by the ZBA.

6. Each parcel is accessible as defined in this chapter.

7. The request complies with the limitation on the maximum number of splits permitted as outlined in division (J)(1) of this section and Section 263 of the Land Division Act, Act 288 of the Public Acts of 1967, as amended.

8. Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.

(b) The Zoning Board of Appeals (ZBA) may grant a variance from the minimum setback requirements, minimum parcel area, minimum parcel width, or maximum parcel depth to width ratio upon a finding of practical difficulty as defined in Section 13.6 of the City of Big Rapids Zoning Ordinance.

(4) *Building permit requirements.* Approval of a lot split neither implies the resulting parcels are buildable, nor a determination that the resulting parcels comply with other City ordinances or regulations. In order to build on a parcel, the property must also comply with the State's Building Code, the City's Zoning Ordinance, and all other applicable City ordinances. In addition, any parcel resulting from a split that is less than one (1) acre in size shall not be issued a building permit unless the parcel has both of the following:

(a) Public water or district health department approval for the suitability of an on-site water supply.

(b) Public sewer or district health department approval for the suitability of an on-site sewage disposal.

(5) *Appeals.* Any applicant aggrieved by a decision of the City Assessor or designee on a lot split request may appeal the decision to the ZBA by submitting the required application and fee to the Zoning Administrator. If an appeal is filed, the City Assessor or designee shall transmit the file on the request being appealed to the ZBA.

(K) *Parcel splits.* A parcel split is the division of a parcel consisting of two or more platted lots along a platted lot line in order to create two or more parcels. Approval of a parcel split is not required; however, the split shall not result in the creation of nonconforming parcels under the terms of the City's Zoning Ordinance unless a variance is first granted by the ZBA. This would include issues of lot width, lot area and setback requirements.
(Ord. 496-7-02, passed 7-15-02; Am. Ord. 655-1-13, passed 1-22-13; Am. Ord. 762-07-20, passed 7-20-20)

§ 153.05 SITE CONDOMINIUMS.

Site condominium projects are approved following the process outlined in Article 12 of the City of Big Rapids Zoning Ordinance.
(Ord. 496-7-02, passed 7-15-02)

§ 153.06 DEVELOPMENT DESIGN STANDARDS.

Design standards for subdivisions and other land development in the City are outlined in the separate City of Big Rapids Development Design Standards adopted by the City Commission.
(Ord. 496-7-02, passed 7-15-02)

§ 153.07 FEES.

Fees for all work associated with the review and approval of applications for all forms of division of land covered by this chapter shall be established by the City Commission by ordinance, and may be amended by the City Commission by ordinance at their discretion.
(Ord. 496-7-02, passed 7-15-02)

§ 153.99 PENALTY.

Any person, firm or corporation who violates any of the provisions of this chapter shall be responsible for a municipal civil infraction. Each offense shall be considered a separate violation.
(Ord. 496-7-02, passed 7-15-02)

CHAPTER 154: ZONING CODE

Section

154.01 Zoning Ordinance adopted by
reference

154.99 Penalty

Cross-reference:

Flood Hazard Area Construction, see Ch. 152

§ 154.01 ZONING ORDINANCE ADOPTED BY REFERENCE.

(A) The Zoning Ordinance of the City is adopted by reference and included herein as if fully set forth.

(B) Copies of the Zoning Ordinance are published in pamphlet form and available for examination and sale at the office of the City Clerk.
(Am. Ord. 447-7-99, passed 7-6-99)

§ 154.99 PENALTY.

Any person who violates any zoning ordinance regulation in Title XV, Chapter 154, shall be responsible for a municipal civil infraction and shall be penalized as provided in § 10.97, with each day that a violation occurs being a separate offense.
(Ord. 427-10-97, passed 10-6-97)

CHAPTER 155: TAX EXEMPTION FOR HOUSING DEVELOPMENTS

Section

- 155.01 Purpose and findings
- 155.02 Definitions
- 155.03 Class of housing developments
- 155.04 Establishment of annual service charge
- 155.05 Limitation on the payment of annual service charge
- 155.06 Housing developments for which construction or rehabilitation was initiated during certain time period
- 155.07 Determination of qualified housing developments
- 155.08 Preliminary review and recommendation
- 155.09 Payment of service charge
- 155.10 Duration
- 155.11 Resolution; contractual effect

§ 155.01 PURPOSE AND FINDINGS.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the construction of qualified housing developments by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCL Section 125.1401 et. seq.). The City of Big Rapids is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. (Ord. 490-02-02, passed 2-18-02; Am. Ord. 566-06-06, passed 5-15-06)

§ 155.02 DEFINITIONS.

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

ACT. The State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

ANNUAL SHELTER RENT. The total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

AUTHORITY. The Michigan State Housing Development Authority.

CONTRACT RENTS. As 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.

ELDERLY. A single person who is 55 years of age or older or a household in which at least one member is 55 years of age or older.

HOUSING DEVELOPMENT. 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 improve the quality of the development as it relates to housing for persons of low income.

MORTGAGE LOAN. A loan that is federally aided (as defined in the Act) or made or to be made by the Authority for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, secured by a mortgage on the housing project.

QUALIFIED HOUSING DEVELOPMENT. A housing development with characteristics specified in this chapter which the City Commission may find exist and qualify the Housing Development for tax exempt status.

SPONSOR. Any person(s) or entities that receive or assume a Mortgage Loan.

UTILITIES. Fuel, water, sanitary sewer service and/or electrical service which are paid by the Housing Development. (Ord. 490-02-02, passed 2-18-02; Am. Ord. 566-05-06, passed 5-15-06; Am. Ord. 610-07-09, passed 7-6-09)

§ 155.03 CLASS OF HOUSING DEVELOPMENTS.

It is determined that the class of housing developments to which the tax exemption may apply and for which a service charge shall be paid in lieu of such taxes shall be elderly housing developments which are financed or assisted by the Authority or which are federally-aided and multiple or single family dwellings for persons of low income located in the City of Big Rapids which are financed or assisted by the Authority or which are federally-aided, and which are found to be qualified housing developments by the City Commission.

(Ord. 490-02-02, passed 2-18-02; Am. Ord. 566-05-06, passed 5-15-06)

§ 155.04 ESTABLISHMENT OF ANNUAL SERVICECHARGE.

(A) Housing developments found by the City Commission to be qualified for tax exempt status and the property on which they shall be constructed shall be exempt from all property taxes from and after the commencement of occupancy. The City, acknowledging that the sponsor and the Authority, in the case of a sponsor receiving a mortgage loan from the Authority, shall have established the economic feasibility of a housing development in reliance upon the enactment and continuing effect of this chapter and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this chapter, agrees to accept payment of an annual service charge for public services in lieu of all property taxes.

(B) The annual service charge for qualified housing developments for which construction or rehabilitation is initiated after January 1, 1990 but prior to January 1, 2002 shall be as follows: The service charge for:

(1) Authority financed or federally-aided housing developments for elderly persons shall be equal to 4% of the difference between the annual shelter rents actually collected and utilities.

(2) Authority financed or federally-aided housing developments intended for persons of low income shall be equal to 10% of the difference between the annual shelter rents actually collected and utilities.

(C) The annual service charge for qualified housing developments for which construction or

rehabilitation is initiated on or after January 1, 2002 shall be as follows: The service charge for:

(1) Authority financed or federally-aided housing developments for elderly persons shall be equal to 0% of the difference between the annual shelter rents actually collected and utilities.

(2) Authority financed or federally-aided housing developments intended for persons of low income shall be equal to 10% of the difference between the annual shelter rents actually collected and utilities.

(3) The authorization of the 0% service charge is within the discretion of the City Commission. In the event that a qualified housing development is denied the 0% service charge, the project shall receive authorization for a 10% service charge, or such service charge between 0% and 10% as the City Commission determines is appropriate.

(4) For each qualified housing development for which construction or rehabilitation is begun after January 1, 2002, the City may by resolution grant tax exempt status. The resolution by the City shall be based on the criteria in § 155.07, and shall be effective on adoption.

(D) The term "low income" as used in this chapter shall be the same as "low income persons and families" as defined in Section 15(a)(7) of the Act. (Ord. 490-02-02, passed 2-18-02; Am. Ord. 566-05-06, passed 5-15-06)

§ 155.05 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

Notwithstanding § 155.04, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

(Ord. 490-02-02, passed 2-18-02; Am. Ord. 566-05-06, passed 5-15-06)

§ 155.06 HOUSING DEVELOPMENTS FOR WHICH CONSTRUCTION OR REHABILITATION WAS INITIATED DURING CERTAIN TIME PERIOD.

Housing developments for which construction or rehabilitation was initiated after January 1, 1990 but prior to January 1, 2002 and which are currently exempt from taxation and which are already making annual service charge payments pursuant to Ordinance 430-12-97 shall not be affected nor shall the terms of the tax exemption and annual service charge payments for those housing developments be changed by reason of the passage of this chapter. The cooperation agreement between the City of Big Rapids and the Big Rapids Housing Commission establishing payments in lieu of taxes for Housing Commission properties developed prior to 1990 is ratified and affirmed.

(Ord. 490-02-02, passed 2-18-02; Am. Ord. 566-05-06, passed 5-15-06)

§ 155.07 DETERMINATION OF QUALIFIED HOUSING DEVELOPMENTS.

A proposed housing development reviewed by the City Commission and found to be qualified for tax exempt status and a PILOT payment must satisfy all of the following criteria:

(A) The Housing Development is designed for elderly or low income residents as defined in this chapter or applicable state or federal law;

(B) The Housing Development will meet a demand not adequately addressed in the existing housing inventory in the community;

(C) The Housing Development will not have a significant negative impact on the existing rental housing market for substantially similar housing units;

(D) The Housing Development is designed so that a PILOT agreement is essential to financing of the proposed housing development;

(E) The Housing Development is designed to avoid an excessive concentration of subsidized housing in any particular section of the City of Big Rapids; and

(F) The Housing Development will rehabilitate or remove some dilapidated or substandard housing stock within the City of Big Rapids.

(Ord. 566-05-06, passed 5-15-06)

§ 155.08 PRELIMINARY REVIEW AND RECOMMENDATION.

Prior to action by the City Commission on a request for tax exempt status on a proposed housing development, a conceptual plan describing the existing housing stock to be rehabilitated or removed, and the number and type of new housing units to be constructed, and the location of each within the City, and the market for the proposed housing units, and the importance of the tax exempt status in making the Housing Development feasible, shall be submitted to the Planning Commission for review and recommendation to the City Commission on each of the six criteria in § 155.07. The Big Rapids Housing Commission shall be asked for its input and recommendation on each of the six criteria, which shall be provided in writing to the Planning Commission prior to the Planning Commission's review of the request for tax exempt status.

(Ord. 566-05-06, passed 5-15-06; Am. Ord. 655-1-13, passed 1-22-13)

§ 155.09 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the ordinance shall be payable in the same manner as general property taxes are payable to the City of Big Rapids.

(Ord. 490-02-02, passed 2-18-02; Am. Ord. 566-05-06, passed 5-15-06)

§ 155.10 DURATION.

The tax exempt status of a housing development approved for such status by resolution of the City shall remain in effect and shall not terminate so long as the mortgage loan remains outstanding and unpaid or the Authority has any interest in the property; provided, that construction of the housing development commences within one year from the effective date of the resolution.

(Ord. 490-02-02, passed 2-18-02; Am. Ord. 566-05-06, passed 5-15-06)

§ 155.11 RESOLUTION; CONTRACTUAL EFFECT.

A resolution of the City Commission granting tax exempt status, as provided in this section, shall be adopted for each housing development qualified under the terms and provisions of this section. Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City

and the sponsor with the authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes as previously described will be effectuated by enactment of such a resolution by the City Commission.

(Ord. 610-07-09, passed 7-6-09)

PARALLEL REFERENCES

References to Michigan Compiled Laws
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REFERENCES TO MICHIGAN COMPILED LAWS

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