CODE OF ORDINANCES

CITY OF

SOUTH HAVEN, MICHIGAN

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OFFICIALS

of the

CITY OF

SOUTH HAVEN, MICHIGAN

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PART II

CODE OF ORDINANCES

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Sec. 1-1. Code designated and cited.

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

(Code 1965, Sec. 1.01(a))

State law reference(s)--Codification authority, MCL 117.5b, MSA 5.2084(2).

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

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

Charter. The word "Charter" shall mean the Charter of the City of South Haven, Michigan, adopted November 5, 1991, and shall include any amendment to such Charter.

City. The word "city"" shall denote the municipality of South Haven, Michigan.

City council. The words "city council"" or "council"" shall mean the council of the City of South Haven.

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

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

County. The term "the county" or "this county" shall mean the County of Van Buren and/or the County of Allegan in the State of Michigan.

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

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

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

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

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

Municipal civil infraction. The words "municipal civil infraction" shall mean an act or omission that is prohibited by this Code or any ordinance of the City of South Haven, but which is not a crime under this Code or other ordinance, and for which civil sanctions, including without limitation fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, when designated as a municipal civil infraction by city ordinance. A municipal civil infraction is not a lesser included offense of a violation of this Code that is a criminal offense.

Number. Words in the singular shall include the plural, and the words in the plural shall include the singular.

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

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

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

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

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

(Code 1965, Sec. 1.02; Ord. No. 816, Sec. 1, 2-6-95)

State law reference(s)--Rules of construction, MCL 8.3 et seq., MSA 2.212 et seq.

Sec. 1-3. Interpretation per state acts.

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

Sec. 1-4. Application to territorial boundaries only.

All provisions of this Code are limited in application to the territorial boundaries of the municipal corporation although such provisions may not be so limited specifically.

Sec. 1-5. Catchlines.

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

Sec. 1-6. References and notes.

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

Sec. 1-7. Application to future legislation.

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

Sec. 1-8. Rule of severability.

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

(Code 1965, Sec. 1.07)

Sec. 1-9. Reference to other sections.

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

(Code 1965, Sec. 1.05(d))

Sec. 1-10. References to offices.

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

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

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

(1) Any offense committed or penalty incurred or any right established prior to the effective date of the Code.

(2) Any ordinance levying taxes.

(3) Any ordinance appropriating money.

(4) Any ordinance authorizing the issuance of bonds or borrowing of money.

(5) Any ordinance establishing utility rates.

(6) Any ordinance establishing franchises or granting special rights to certain persons.

(7) Any ordinance authorizing public improvements.

(8) Any ordinance authorizing the purchase or sale of real or personal property.

(9) Any ordinance annexing or detaching territory.

(10) Any ordinance granting or accepting easements, plats or dedication of land to public use.

(11) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city.

(12) Any ordinance establishing or prescribing grades in the city.

(13) Any ordinance prescribing the number, classification or compensation of any city officers or employees.

(14) Any ordinance prescribing traffic and parking restrictions pertaining to specific streets.

(15) Any ordinance pertaining to zoning.

(16) Ordinance No. 570, enacted July 6, 1976, entitled the Housing Code.

(17) Any other ordinance, or part thereof, which is not of a general and permanent nature.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the city clerk's office.

(Code 1965, Sec. 1.03)

Sec. 1-12. Supplementation of Code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

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

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

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

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

Sec. 1-13. General penalties and sanctions for violations of Code and city ordinances; continuing violations; injunctive relief.

(a) Unless a violation of this Code or any ordinance of the city is specifically designated in the Code or ordinance as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

(b) The penalty of a misdemeanor violation shall be a fine not exceeding $500.00 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by this Code or any ordinance.

(c) The sanction for a violation which is a municipal civil infraction shall be as set forth in section 1-16, below, or any provision of this Code or of any ordinance adopted by the city, declaring a violation to be a municipal civil infraction and prescribing sanctions, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

(d) A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this Code or any ordinance and, any omission or failure to act where the act is required by this Code or any ordinance.

(e) Each day on which any violation of this Code or any ordinance continues constitutes a separate offense/violation and shall be subject to penalties or sanctions as a separate offense.

(f) In addition to any remedies available at law, the city may bring an action for an injunction or other process against a person, firm or corporation to restrain, prevent or abate any violation of this Code or any city ordinance.

(g) This section shall not apply to the failure of officers and employees of the city to perform municipal duties required by this Code or by any ordinance.
(Code 1965, Sec. 1.05; Ord. No. 816, Sec. 2, 2-6-95)

State law reference(s)--Limitation on penalties, MCL 117.4i, MSA 5.2082.

Sec. 1-14. Notice.

(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 such notice at his residence, office or place of business with some person of suitable age and discretion;

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

(3) If the owner is unknown, by posting such 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.

Sec. 1-15. Responsibility for violations.

Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted pursuant to this Code, such prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do such act.

(Code 1965, Sec. 1.06)

Sec. 1-16. Municipal civil infractions.

(a) *Definitions*. For purposes of their use in this section, the following words and terms are herein defined. Any word or term not herein defined shall be considered to be defined in accordance with its common or standard definitions.

(1) *Act* means Act No. 236 of the Public Acts of 1961, as amended.

(2) *Authorized city official* means a police officer or other personnel of the city authorized by ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

(3) *Bureau* means the City of South Haven Municipal Ordinance Violations Bureau as established by this section.

(4) *City ordinance* means the City of South Haven Code of Ordinances and all other ordinances adopted by the City of South Haven.

(5) *Municipal civil infraction* means an act or omission that is prohibited by ordinance of the city, but which is not a crime under this section or other ordinances of the city, and for which civil sanctions, including without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, when designated as a municipal civil infraction by city ordinance. A municipal civil infraction is not a lesser included offense of a violation of the ordinances of the city which is a criminal offense.

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

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

(8) *Municipal civil infraction determination* means a determination that a defendant is responsible for a municipal civil infraction by one of the following: (i) an admission of responsibility for the municipal civil infraction, (ii) an admission of responsibility for the municipal civil infraction "with explanation," (iii) a preponderance of the evidence at an informal hearing or formal hearing, (iv) a default judgment for failing to appear as directed by citation or other notice.

(9) Municipal civil infraction violation notice means a written notice prepared by an authorized city official, directing a person to appear at the City of South Haven Municipal Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized under Sections 8396 and 8707(6) of the Act.

(b) *Municipal civil infraction action; commencement*. A municipal civil infraction may be commenced upon the issuance by an authorized city official of:

(1) A municipal civil infraction citation directing the alleged violator to appear in court; or

(2) A municipal civil infraction violation notice directing the alleged violator to appear at the City of South Haven Municipal Ordinance Violations Bureau.

(c) *Municipal civil infraction citations; issuance and service*. Municipal civil infraction citations shall be issued and served by authorized city officials as follows:

(1) The time for appearance specified on a citation shall be within a reasonable time after the citation is issued.

(2) The place for appearance specified on the citation shall be the district court unless the person cited for a municipal civil infraction is under the age of 17 at the time of the occurrence of the violation, in which case the matter shall be referred to the probate court.

(3) Each citation shall be numbered consecutively, shall be in the form approved by the state court administrator and shall consist of the following parts:

a. The original, which is a complaint and notice to appear, shall be filed with the district court;

b. The first copy shall be retained by the city and/or the ordinance enforcing agency;

c. The second copy shall be issued to the alleged violator if the violation is a municipal civil infraction; and

d. The third copy shall be issued to the alleged violator if the violation is a misdemeanor.

(4) A citation for a municipal civil infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

(5) An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.

(6) An authorized city official may issue a citation to a person if:

a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

b. Based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or city attorney approves in writing the issuance of the citation.

(7) Municipal civil infraction citations shall be served by an authorized city official as follows:

a. Except as provided in subsection (c)(7)b. below, an authorized city official shall personally serve a copy of the citation upon the alleged violator.

b. If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the municipal civil infraction citation does not need to be personally served upon the alleged violator, but may be served upon the owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or stricture at the owner's last known address. A citation served in accordance with this subsection for a violation involving the use or occupancy of land or a building or other structure shall be processed in the same manner as a citation served personally upon a defendant.

(d) Municipal civil infraction citations; contents.

(1) A municipal civil infraction citation shall contain the name of the city and the name and the address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(2) A municipal civil infraction citation shall inform the alleged violator that he or she may do one of the following:

a. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.

b. Admit responsibility for the municipal civil infraction "with explanation" by mail, in person, or by representation, by the time specified for appearance.

c. Deny responsibility for the municipal civil infraction by doing either of the following:

1. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city.

2. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney. A party requesting a formal hearing shall notify the court, the city and any other named party or parties of the request at least ten days before the hearing date, which request may be made in person, by representation, by mail or by telephone.

(3) The citation shall also inform the alleged violator of all of the following:

a. That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation

within the time specified for appearance and obtain a scheduled date and time for an appearance.

b. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified to appear for a hearing, unless a hearing date is specified on the citation.

c. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city.

d. That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

e. That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(4) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction. Return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs, return of citation with am admission of responsibility with explanation, and with fill payment of applicable civil fines and costs, or timely application to the court for a scheduled date and time for an appearance under subsection (d)(3)a. or a hearing under subsection (d)(3)b. constitutes a timely appearance.

(5) If an authorized city official issues a citation as set forth in this section, the court may accept an admission with explanation or an admission or denial of responsibility without the necessity of a sworn complaint. If the defendant denies responsibility for the municipal civil infraction, further proceedings shall not be held until a sworn complaint is filed with the court. A warrant for arrest for failure to appear on the municipal civil infraction citation shall not be issued until a sworn complaint relative to the municipal civil infraction is filed with the court.

(e) *Municipal ordinance violations bureau*.

(1) The city hereby establishes a municipal ordinance violations bureau (the bureau) as authorized under Section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs as prescribed by ordinance. The expenses of operating the bureau shall be borne by the city, and the personnel of the bureau shall be city employees.

(2) The bureau shall be located at South Haven City Hall, and shall be under the supervision and control of the city treasurer. The city treasurer, subject to the approval of the city council, shall adopt rules and regulations for the operation of

the bureau and appoint any necessary qualified city employees to administer the bureau.

(3) The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as opposed to a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this section shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

(4) The scope of the bureau's authority shall be limited to accepting admissions of' responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(f) *Municipal civil infraction notices; contents, issuance and service*.

(1) An authorized city official may issue and serve a municipal civil infraction violation notice instead of a citation under the same circumstances and upon the same persons as provided for service of municipal civil infraction citations. In addition to any other information required by this section or other ordinances, the violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(2) An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(3) If an authorized city official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and if any costs, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(g) *Municipal civil infractions; sanctions, continuing violations, injunctive relief*:

(1) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided for herein, or established by city ordinance, plus any costs, damages, expenses, and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

a. Unless otherwise specifically provided for a particular municipal civil infraction violation in subsection (g)(1)c. below, or by city ordinance, the civil fine for a violation shall be $50.00, plus costs and other sanctions, for each infraction.

b. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of city ordinance. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any 12-month period (unless some other period is specifically provided by ordinance), and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided for in a particular municipal civil infraction violation in subsection (g)(1)c. below, or by city ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense should be as follows:

1. The fine for any offense which is a first repeat offense shall be $250.00, plus costs.

2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be $500.00, plus costs.

c. The civil fine for the following specific violations which shall be calculated in addition to other appropriate costs and sanctions, are:

Section	**First offense**	**Second offense**	**Third offense**	**Fourth offense**
1. 6-3	$50.00	$100.00	$250.00	$500.00
2. 6-4	$50.00	$100.00	$250.00	$500.00
3. 6-31	$50.00	$100.00	$250.00	$500.00
4. 10-53	$50.00	$250.00	$500.00	---
5. 10-146.5	$50.00	$250.00	$500.00	---
6. 10-173	$50.00	$250.00	$500.00	---
7. 18-3	$50.00	$100.00	$250.00	$500.00
8. 22-37	$50.00	$100.00	$250.00	$500.00
9. 30-95	$50.00	$100.00	$250.00	$500.00
10. 34-60(b)	$50.00	$250.00	$500.00	---
11. 38-3	$50.00	$250.00	$500.00	---
12. 58-81	$50.00	$100.00	$250.00	$500.00
13. 58-85	$50.00	$100.00	$250.00	$500.00

Section	**First offense**	**Second offense**	**Third offense**	**Fourth offense**
14. 58-88	$50.00	$100.00	$250.00	$500.00
15. 58-89	$50.00	$100.00	$250.00	5500.00
16. 58-94	$50.00	$100.00	$250.00	$500.00
17. 58-95	$50.00	$100.00	$250.00	$500.00
18. 58-96	$50.00	$100.00	$250.00	$500.00
19. 58-98	$50.00	$250.00	$500.00	---
20. 70-3	$50.00	$100.00	$250.00	$500.00
21. 74-2	$50.00	$100.00	$250.00	$500.00
22. 74-3	$50.00	$100.00	$250.00	$500.00
23. 74-4	$50.00	$100.00	$250.00	$500.00
24. 74-9	$50.00	$100.00	$250.00	$500.00
25. 74-10	$50.00	$100.00	$250.00	$500.00
26. 74-11	$50.00	$100.00	$250.00	$500.00
27. 74-35	$50.00	$100.00	$250.00	$500.00
28. 74-61	$50.00	$250.00	$500.00	---
29. 86-175	$50.00	$250.00	$500.00	$1,000.00
30. Zoning, §2803	$50.00	$250.00	$500.00	---
31. Housing, §12.24	$50.00	$250.00	$500.00	---

(2) A “violation” includes any act which is prohibited or made or declared to be unlawful by city ordinance and, any omission or failure to act where the act is required by city ordinance.

(3) Each day on which any violation of a city ordinance continues constitutes a separate violation and shall be subject to penalties and/or sanctions as a separate violation. Where a particular city ordinance requires notice of a violation or order by city official to be given, each day on which any violation continues after such notice or order is given constitutes a separate violation and will be subject to penalties and/or sanctions as a separate violation.

(4) In addition to any remedies available at law, the city may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of’ city ordinance.

(h) *Authorized city official*. The chief of police and all other sworn police officers, the chief of the fire department, assistant fire chief, fire marshall and shift supervisor, building inspector, code enforcement official, zoning administrator, harbor master, city manager, public works director and any other individuals who may from time to time be appointed by resolution of the city council, are hereby designated as the authorized city officials to issue municipal civil infraction citations (directing alleged violators to appear at the City of South Haven Municipal Ordinance Violations Bureau), for violations which fall within respective jurisdictions, as provided by this section.

(Ord. No. 816, Sec. 3, 2-6-95; Ord. No. 910, 02-03-03)

Chapter 2

ADMINISTRATION*

***Cross reference(s)--**Cemeteries, ch. 18; community development, ch. 22; housing commission, Sec. 22-121 et seq.; elections, ch. 26; environment, ch. 30; fire department, Sec. 34-26 et seq.; harbor commission, Sec. 38-26 et seq.; harbormaster, Sec. 38-56 et seq.; port authority, Sec. 38-81 et seq.; health and sanitation, ch. 42; human relations, ch. 46; offenses affecting governmental functions, Sec. 54-26 et seq.; parks and recreation, ch. 58; parks and cemetery commission, Sec. 58-36 et seq.; planning, ch. 62; planning commission, Sec. 62-26 et seq.

State law reference(s)--Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.; freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

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ARTICLE I. IN GENERAL

Sec. 2-1. Smoking in council chambers.

(a) It shall be unlawful to smoke or possess lighted tobacco in any form in the city council chambers in the city hall.

(b) There shall be ash trays or similar fireproof containers at the entrance to such city council chambers for the disposal of any such lighted tobacco.

(c) Any person violating any provision of this section shall be fined not less than $5.00 nor more than $25.00 for each offense.

(Code 1965, Sec. 2.07)

Secs. 2-2--2-25. Reserved.

ARTICLE II. OFFICERS AND EMPLOYEES*

***Charter reference(s)--**Elections, ch. 3; organization of government, ch. 4; legislation, ch. 7.

Cross reference(s)--Any ordinance prescribing the number, classification or compensation of any city officers or employees saved from repeal, Sec. 1-11(13).

Sec. 2-26. Residency requirement.

As a condition of continued employment, each full-time emergency service employee, and each full-time on-call employee of the city is required to establish and maintain his bona fide residence and primary domicile within the geographic area described in this section as follows:

(1) The city manager shall establish his/her primary and bona fide residence and primary domicile within the corporate limits of the city per the provisions of the City Charter.

(2) The police chief and fire chief must establish his/her primary and bona fide residence within the corporate limits of the city within six months of the day of employment with the city.

(3) Within 12 months after his/her date of hire, an employee of the following departments shall establish his/her primary and bona fide residence within an eight-mile radius of the Fire: Police Complex at 90 Blue Star Highway: fire, street, wastewater treatment, water filtration, water and sewer distribution, electric distribution, and finance department on-call employees.

(4) Within 12 months after his/her date of hire, an employee in the police department shall establish his/her primary and bona fide domicile within a 12-mile radius of the Fire: Police Complex at 90 Blue Star Highway.

(5) Upon written request and approval by the city manager, the time for compliance with the residence policy and requirements may be extended for a reasonable period of time when a compelling need for such an extension is established to the city manager's satisfaction. The city manager shall notify the council of such extensions.

(6) There are no other residency restrictions implicit or implied.

(Ord. No. 710, Sec. 1, 5-12-88; Ord. No. 826, Sec. 1, 6-19-95)

Charter reference(s)--Authority to prescribe residency requirements, Sec. 5.1.

Secs. 2-27--2-45. Reserved.

ARTICLE III. FINANCE*

***State law reference(s)--**Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.; uniform budgeting and accounting act, MCL 141.421 et seq., MSA 5.3228(21) et seq.

DIVISION 1. GENERALLY

Sec. 2-46. Contracts.

All contracts must be approved by the city manager and the city attorney as to form.

(Ord. No. 749, Sec. 1(4.20), 2-3-92)

Sec. 2-47. Surplus stock.

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

(1) *Sale.* The purchasing manager 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 the city Charter or to conduct an auction for sale of items. Sales under this section shall be made to the highest responsible bidder.

(2) *Sales procedure.* Sales shall be made by the same procedures regulating purchases.

(3) *Transfer.* The purchasing manager shall have the authority to transfer surplus stock to other agencies.

(Ord. No. 749, Sec. 1(4.21), 2-3-92)

Sec. 2-48. Collecting accounts.

The city attorney is authorized to commence and carry on actions in all courts for the purpose of collecting accounts owed to the city or to any of its administrative departments when requested by any city officer or administrative employee charged with the collection of any such accounts.

(Code 1965, Sec. 2.05)

Sec. 2-49. Creation of fund from sale of utility.

(a) There is hereby created a fund for the purpose of receiving funds from the sale of any municipally owned utility if its sale is approved by a three-fifths vote of its qualified electors voting on the proposition, as provided by the city Charter.

(b) Such fund shall be used for the purpose of acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings which the city may, by provisions of its Charter or the general law, be authorized to acquire, construct, extend, alter, enlarge, equip or repair.

(c) The council shall have and exercise control over the fund, subject to the provision that the principal of the fund may be expended only after receiving approval by affirmative vote of a three-fifths majority of the electors of the city voting thereon at a regular or special election.

(d) The council shall invest the fund only in securities authorized by law. The earnings from such investments shall not be a part of the fund but shall become part of the general revenue of the city and may be used for general city purposes.

(Code 1965, Sec. 2.04)

Charter reference(s)--Disposal of utility plants and property, Sec. 13.5.

Sec. 2-50. Sale or lease of real estate.

Any agreement or contract whereby the city leases its own property to any lessee for a period longer than five years shall be subject for 30 days to the same referendum procedures as is provided in the case of ordinances passed by the council. The transfer or assignment of any agreement or contract for leasing of public property may be made only upon approval of the council, but approval of any transfer shall not be subject to a referendum. Leases and renewals thereof shall be for a fair consideration as determined by the council.

(Ord. No. 749, Sec. 1(4.08), 2-3-92)

Charter reference(s)--Purchase, sale, lease of property, ch. 12; council vote required if realty, Sec. 7.6(b)(2), 7.6(b)(8), 12.4.

Sec. 2-51. Creation of budget stabilization fund.

There is hereby created a budget stabilization fund in accordance with 1978 PA 30, as amended, MCL 141.441 et seq. Said fund may be used to the extent permitted by state law.

(Ord. No. 983, Sec. 1, 06-21-2010)

Secs. 2-52--2-60. Reserved.

DIVISION 2. PURCHASING

Sec. 2-61. Purpose of division.

The purpose of this division is to provide for consistency in public purchasing.

(Ord. No. 749, Sec. 1(4.02), 2-3-92)

Sec. 2-62. Application of division.

This division applies to contracts for procurement of supplies, services, and construction, entered into by the city, unless otherwise provided for in this article. It shall apply to every expenditure of public funds by a public agency for public purchasing irrespective of its source. When a procurement involves the expenditure of federal assistance or contract funds, it shall be conducted in accordance with any federal law and regulation. No procurement contract shall prevent any public agency from complying with the terms and conditions of any grant, gift or bequest which are otherwise consistent with law.

(Ord. No. 749, Sec. 1(4.03), 2-3-92)

Sec. 2-63. Definitions.

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

City purchasing manager or purchasing manager means the purchasing manager of the city.

Contractual services means and includes the rental, repair or maintenance of equipment, machinery, roads and other city-owned property providing operations and/or services.

Public improvement means any enhancement to property belonging to the city.

Supplies means and includes all materials and equipment.

(Ord. No. 749, Sec. 1(4.04), 2-3-92)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 2-64. City purchasing manager--Appointment.

The purchasing manager shall be responsible for the purchase and sale of all city property, and the purchasing manager shall be appointed and designated as such by the city manager.

(Ord. No. 749, Sec. 1(4.05), 2-3-92)

Sec. 2-65. Same--Powers and duties.

The purchasing manager shall have the following powers and duties:

(1) *Bulk purchases.* Exploit the possibilities of buying in bulk so as to take full advantage of discounts.

(2) *Encourage competition.* Endeavor to obtain as full and open competition as possible on all purchases and sales.

(3) *Federal tax exemptions.* Act so as to procure for the city all federal tax exemptions to which it is entitled.

(4) *Forms.* Prescribe and maintain such forms as are reasonable and necessary for the operation of this article.

(5) *Minimize expenditure.* Act to procure for the city the highest quality in supplies and contractual services at the least expense to the city.

(6) *Purchasing analysis.* Keep informed of current developments in the field of purchasing, prices, market conditions and new products in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition and private businesses and organizations.

(7) *Rules and regulations.* Establish and amend, when necessary, all rules and regulations authorized by this article and any others necessary to its operation.

(8) *Vendor's catalog file.* Prepare, adopt and maintain a vendor's catalog file. The catalog shall be filed according to materials and shall contain descriptions of vendors" commodities, prices and discounts.

(9) *Disqualification of bidders.* Have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the municipality for a stated period of time.

(10) *Cooperation with the city manager and finance group director.* Cooperate with the city manager and finance group director so as to secure for the city the maximum efficiency in budgeting and accounting.

(11) *Other.* Perform other duties as may be designated by the city manager or ordained by the city council.

(Ord. No. 749, Sec. 1(4.06), 2-3-92)

Sec. 2-66. Purchasing committee; creation, duties.

(a) The purchasing committee is an administrative committee consisting of the city manager, purchasing manager, and finance group manager. The group manager or department head of the department that is purchasing items will serve as a fourth ad hoc member of the committee.

(b) The duties of the purchasing committee shall include but not be limited to:

(1) Preparation and/or review of plans and specifications for the purchase of any materials, supplies, or services.

(2) Opening and review of bids.

(3) Providing recommendations, tabulations and any other information helpful to council's decision making.

(4) Providing a recommendation designating the lowest responsible bidder for all purchases requiring council approval.

(5) Determining that adequate funds are budgeted and available and further specifying the account number to be charged.

(6) Serving in an advisory capacity on all questions of purchasing policy and practices.

(Ord. No. 749, Sec. 1(4.07), 2-3-92)

Sec. 2-67. Purchases--Small items or services under $500.00.

(a) All items under the price of $500.00 may be purchased from a local vendor by a department head, or his designated representative, when it has been determined by the department head that it is not cost effective to buy the item or service by competitive bidding.

(b) The department head shall promptly turn in a copy of the receipt for the item purchased to the finance department. The receipt will also contain the signature of the city employee who actually received the item.

(Ord. No. 749, Sec. 1(4.09), 2-3-92)

Sec. 2-68. Same--Items or services over $500.00 and less than $5,000.00.

(a) All purchases under $1,000.00 and in excess of $500.00 shall be approved by the group manager. Competitive bidding shall not be required for purchases under this subsection. Before giving approval for any such purchase, the group manager shall make sure that an appropriation has first been approved by the city council, that a sufficient unencumbered balance remains in the appropriation, and that sufficient funds will be available to cover the claim or meet the obligation when it becomes due and payable.

(b) All purchases of services and supplies under $3,000.00 and in excess of $1,000.00 shall be approved by the city manager or his designated representative. Competitive bidding shall not be required for purchases under this subsection. Before giving approval for such purchases, the group manager shall make sure that an appropriation has first been approved by the city council, that a sufficient unencumbered balance remains in the appropriation and that sufficient funds will be available to cover the claim or meet the obligation when it becomes due and payable.

(c) All purchases of services and supplies under $15,000.00 and in excess of $3,000.00 will be approved by the City Manager or his designated representative. A minimum of three informal, unsealed written bids shall be taken on such items. If three bids cannot be obtained, sole source purchasing is permitted. Before giving approval for such purchases, the group manager shall make sure that an appropriation has first been approved by the City Council, that a sufficient unencumbered balance remains in the appropriation and that sufficient funds will be available to cover the claim or meet the obligation when it becomes due and payable. Informal bids will be advertised once in a newspaper of general circulation within the city or other general publications stating the necessary information to permit bids to be made. Notice inviting the bids shall be published at least five working days preceding the last day set for the receipt of proposals. The newspaper notice may include a general description of the supplies or services to be purchased and shall state whether and where the informal bids may be sent. The City manager shall reserve the right to reject any and all bids submitted, and such right of rejection shall be included with any notice of request for bids.

(Ord. No. 749, Sec. 1(4.10), 2-3-92; Ord. No. 879, Sec. 1, 2-21-00)

Sec. 2-69. Same--Over $15,000.00.

(a) All contracts and purchases involving $15,000.00 or more must be approved by the city council.

(b) Except as provided in subsection (d) of this section, for purchases of services and supplies equal to or in excess of $5,000.00 but under $20,000.00, competitive bidding shall be required; provided that the city council, by unanimous resolution of those members present at a meeting based upon the written recommendation of the city manager, may determine that it would not be advantageous to require competitive bidding with respect to a particular purchase and may dispense with the requirements for competitive bidding and sealing bids in such case.

(c) Except as provided in subsection (d) of this section, all purchases of services and supplies for $20,000.00 or more shall require competitive bidding.

(d) Competitive bids shall not be required for:

(1) Professional services.

(2) Emergency purchases of repairs, supplies and services in accordance with section 2-77.

(3) All kinds and types of insurance.

(4) Any contract, agreement or arrangement, or renewal thereof, for the purchase of electricity at wholesale from a governmental unit or agency of a governmental unit, an authority, a private or public cooperative or association, a public utility or other entity.

(e) The requirements for competitive bidding shall not apply to intergovernmental agreements or purchases, sales or other transfers of property involved in such contracts.

(f) The requirements for competitive bidding shall not apply where a construction, renovation or repair project or service can be and is to be provided by city personnel.

(g) No purchase shall be divided for the purpose of circumventing the dollar limitations contained in this section.

(h) The invitation to bid will be advertised once in a newspaper of general circulation within the city or other general publications stating the necessary information to permit bids to be made. Notice inviting the bids shall be published at least five working days preceding the last day set for the receipt of proposals. The newspaper notice may include a general description of the supplies or services to be purchased and shall state whether and where the bid blanks and specifications may be obtained and the time and place of opening bids. The council shall reserve the right to reject any and all bids submitted, and such right of rejection shall be included with any notice of request for bids.

(Ord. No. 749, Sec. 1(4.11), 2-3-92; Ord. No. 804, Sec. 1, 1-31-94; Ord. No. 841, Sec. 1, 3-3-97; Ord. No. 879, Sec. 2, 2-21-00)

Sec. 2-70. Determining best bid.

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 and all bids in its discretion, including the lowest bid, if a determination is made that the lowest bidder is not competent to satisfactorily complete the project in question at the proposed bid price. In determining which bidder is the most responsible bidder, the city manager and city council may consider the following:

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

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

(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(4) The quality of performance of previous contracts or services of the bidder.

(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services.

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

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

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

(9) The number and scope of conditions attached to the bid.

(10) If the bidder is a local vendor who may be able to provide services more efficiently or provide local jobs.

(Ord. No. 749, Sec. 1(4.12), 2-3-92)

Sec. 2-71. Bid by person in default.

The city council shall not accept the bid of a contractor who is in default on payment of taxes, licenses or other monies due the city, nor shall the council award any contract to a person who is in default on the payment of taxes, licenses or other monies due the city. Each bidder must certify that they are not in default to the city as set forth in this section.

(Ord. No. 749, Sec. 1(4.12(11)), 2-3-92)

State law reference(s)--Bidders for public contracts, qualifications required, MCL 123.501 et seq., MSA 5.2311 et seq.

Sec. 2-72. Bid deposits.

When deemed necessary by the purchasing manager, bid deposits and/or performance bonds shall be prescribed in the public notices inviting bids. A successful bidder shall forfeit any bid deposit required by the purchasing manager upon failure on the bidder's part to enter a contract within the time specified after the award.

(Ord. No. 749, Sec. 1(4.13), 2-3-92)

State law reference(s)--Bonds of contractors for public buildings and works, MCL 129.201 et seq., MSA 5.2321(1).

Sec. 2-73. Bid opening procedure.

(a) *Opening.* Bids shall be opened in public at the time and place stated in the public notices.

(b) *Sealed bids.* Bids shall be submitted sealed to the purchasing manager and shall be identified as bids on the envelope.

(c) *Challenge.* Any challenge to the specifications, bidding requirements or qualifications of bidders shall be made prior to the opening of bids, otherwise they will be considered to be waived.

(Ord. No. 749, Sec. 1(4.14), 2-3-92)

Sec. 2-74. Appropriation sufficiency.

Prior to the approval of any purchase by the city council, the purchasing manager shall check to make sure that an appropriation has been made for the purchase, that a sufficient unencumbered balance remains in the appropriation for the purchase, and that funds will be available to cover the claim or meet the obligation when it becomes due and payable.

(Ord. No. 749, Sec. 1(4.15), 2-3-92)

Sec. 2-75. Purchases through state bid contracts.

Whenever the city purchases items from a state bid contract, the provisions of sections 2-68 and 2-69 shall be deemed to have been complied with.

(Ord. No. 749, Sec. 1(4.16), 2-3-92)

Sec. 2-76. Purchasing order.

A city purchasing order shall be initiated by the purchasing manager, department head, group manager, and/or city manager and forwarded to the vendor on all items purchased or contracted under the authority of sections 2-67 to 2-72.

(Ord. No. 749, Sec. 1(4.17), 2-3-92)

Sec. 2-77. Emergency purchases.

In case of an emergency which requires immediate purchase of supplies or contractual services, the city manager shall be empowered to purchase on the open market, at the lowest obtainable price, any necessary contractual services or supplies. A full report of the circumstances of any emergency purchase shall be filed with the city council by the city manager within 15 days after such purchase and shall be entered in the council minutes.

(Ord. No. 749, Sec. 1(4.18), 2-3-92)

Sec. 2-78. Public improvements.

No purchased public improvement costing more than $15,000.00 shall be contracted for or commenced until estimates, drawings, profiles and specifications, where appropriate, have been submitted to the city council by the group manager, public works and engineering.

(Ord. No. 749, Sec. 1(4.19), 2-3-92; Ord. No. 879, Sec. 3, 2-21-00)

Sec. 2-79. Cooperative purchasing.

The purchasing manager shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the city would be served thereby, upon the approval of the city council.

(Ord. No. 749, Sec. 1(4.22), 2-3-92)

Sec. 2-80. Purchasing services available to other public agencies.

The purchasing services of the city shall be made available without charge to any public authority in which the city has an interest.

(Ord. No. 749, Sec. 1(4.23), 2-3-92)

Sec. 2-81. Payment to the contractor.

No compensation shall be paid to any contractor except in accordance with the terms of the contract.

(Ord. No. 749, Sec. 1(4.24), 2-3-92)

Sec. 2-82. Change order approval procedure.

(a) The city manager shall have the authority to execute the following capital construction project change orders:

(1) Change orders which result in a reduction in cost but do not alter the general scope of the project.

(2) Change orders in emergency situations as provided in section 2-75.

(3) Change orders within the budget of a capital construction project which result in an additional contract amount if the accrued cost of all change orders to date relative to that contract do not exceed a ten percent increase of the original contract amount, provided the general scope of work is not altered.

(b) All change orders not included in subsection (a) of this section shall be effective only after prior approval of the city council. If such approval is given, the city manager is hereby authorized to execute the change orders.

(Ord. No. 707, Sec. 1, 4-14-88)

Secs. 2-83--2-105. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS

Division 1. Generally

Secs. 2-106--2-115. Reserved.

Division 2. Board of Review*

***Charter reference(s)--**Composition of board of review, Sec. 9.6.

Sec. 2-116. Board of review--Appointments and function.

The city council shall by resolution annually during the month of January, if practicable, but in any event prior to the Tuesday following the first Monday in March, appoint a board of review to serve during the current tax year. The board of review shall consist of six residents and shall function in accordance with applicable requirements of the Charter and state law.

(Ord. No. 751, Sec. 1, 2-3-92)

Sec. 2-117. Same--Meetings and compensation.

The resolution required by section 2-116 shall also specify the dates and time of day for board of review meetings which shall be held in accordance with applicable requirements of the Charter and state law. The resolution shall also specify compensation to be paid to board of review members.

(Ord. No. 751, Sec. 2, 2-3-92)

Charter reference(s)--Meetings of board of review, Sec. 9.7; authority of council to determine compensation of board of review, Sec. 9.6.

Secs. 2-118--2-130. Reserved.

Division 3. “Local Officers” Compensation Commission

Sec. 2-131. Creation; members; appointment; terms; vacancies.

A "local officers" compensation commission is created which shall determine the salaries of all locally elected officials. The commission shall consist of five members who are registered electors of the city, appointed by the mayor, subject to confirmation by a majority of the members elected and serving on the council. The terms of office shall be five years. One each shall be appointed for terms of one, two, three, four and five years. Members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term. No member or employee of the legislative, judicial or executive branch of any level of government or members of the immediate family of such member or employee shall be eligible to be a member of the commission.

(Code 1965, Sec. 2.11(a))

Sec. 2-132. Determination of salaries.

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

(Code 1965, Sec. 2.11(b))

Sec. 2-133. Meetings; quorum; election of chairman; compensation.

The "local officers" compensation commission shall meet for not more than 15 session days every even-numbered year and shall make its determination within 45 calendar days of its first meeting. A majority of the members of the commission constitute a quorum for conducting the business of the commission. The commission shall take no action or make determinations without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairman from among its members. "Session days" means any

calendar day on which the commission meets and a quorum is present. The members of the commission shall receive no compensation but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

(Code 1965, Sec. 2.11(c))

Charter reference(s)--Compensation of councilmembers, Sec. 4.3.

State law reference(s)--Authority to create local officers" compensation commission, MCL 117.5c, MSA 5.2084(3).

Chapters 3 - 5

RESERVED

Chapter 6

ANIMALS*

***Cross reference(s)--**Offenses, ch. 54; animals in parks, Sec. 58-85.

State law reference(s)--Authority to adopt animal control ordinance, MCL 287.290, MSA 12.541.

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ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

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

Animals means dogs, cats, and any other animals, including fowl.

Harbor or keep means the practice of a person to permit or allow an animal to remain or to be lodged or fed at a property, dwelling, building, enclosure or premises owned or occupied by such person.

Noises means, in the case of dogs, barking, howling, yelping, whining or growling. Noises in the case of fowls or animals other than dogs means such noises as are made by such fowls or other animals.

Owner means every person having a right of property in an animal; and shall include a person who harbors or keeps an animal or has an animal in his custody.

Reasonable control of a dog means restraining the animal on a suitable leash in all places other than the property of the owner. A dog need not be leashed when on the property of the owner so long as the animal is kept under the oral control of the owner. Reasonable control of any animal other than a dog shall mean restraining such animal on a suitable leash in all places including the property of the owner. Reasonable control of fowls shall mean a cage, pen, fenced area or other enclosure which confines the fowls to such enclosure. Animals which are confined to a dwelling, building, cage, pen, fenced area, or other enclosure, or which are confined in a closed motor vehicle or shipping receptacle, shall be presumed to be under reasonable control.

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 6-2. Animals outside of property of owner.

(a) It shall be unlawful for a person who owns, harbors or keeps, or who has custody of an animal to permit or allow the animal outside the property of such owner, harborer or keeper, or custodian, unless the animal is under reasonable control.

(b) It shall be unlawful for a person who owns, harbors or keeps, or who has custody of an animal to permit or allow the animal to enter or remain in any public park or recreation area, public building, or any building or area which is open to the general public. That an animal may otherwise be under reasonable control shall not constitute a defense to prosecution under this subsection.

(c) A guide dog or leader dog which is trained to assist a visually impaired person, when used as such, shall be excepted from the prohibitions contained in subsection (b) of this section.

Sec. 6-3. Animals running at large prohibited.

(a) It shall be unlawful for an owner of an animal to permit or allow the animal to run at-large in any public street, lane, alley, sidewalk, or other public place or area set apart for use by pedestrians or for vehicular traffic or parking.

(b) It shall be unlawful for a person who owns, harbors or keeps, or who has custody of a female animal in heat to permit such female animal to go outside a dwelling, building, cage, pen, fenced area or other enclosure unless effectively held on a leash.

(c) Racing pigeons, when kept and used as such, shall be exempt from the prohibition contained in subsection (a) of this section.

(d) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to the enforcement procedures and penalties as set forth in section 1-16.

(Ord. No. 816, Sec. 4, 2-6-95)

Cross reference(s)--Animals in public parks, Sec. 58-85.

Sec. 6-4. Noises prohibited.

(a) No person shall own, harbor or keep, or have custody of an animal which, by making loud and frequent or habitual noises, shall disturb the peace and quiet or interfere with the sleep or repose of persons owning or occupying other properties in the neighborhood; or which shall cause unreasonable interference or annoyance to persons lawfully traversing upon the streets and sidewalks. That an animal may otherwise be under reasonable control shall not constitute a defense to prosecution under this section.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Ord. No. 816, Sec. 5, 2-6-95)

Sec. 6-5. Destruction or damage of property or trespass.

It shall be unlawful for a person who owns, harbors or keeps, or who is the custodian of an animal to permit or allow such animal to destroy or damage, or to trespass upon, the property of another person.

Sec. 6-6. Animal cruelty prohibited.

(a) It shall be unlawful for a person who owns, harbors or keeps, or who has custody of an animal to treat such animal, or to permit or allow such animal to be treated, in a cruel or inhumane manner; deliberately or negligently to cause, or to permit or allow to be caused, an animal to suffer unnecessary pain; to cause, or permit or allow to be caused, an animal to go without food, water or adequate shelter; or to deprive an animal of such care and attention as may be reasonably necessary to preserve its life or health.

(b) No person shall maliciously taunt, provoke or harass an animal; nor shall a person maliciously cause an animal to suffer pain or injury; nor shall a person maliciously or cruelly kill an animal.

Sec. 6-7. Permit required to keep livestock.

No person shall keep any horses, cattle, swine, sheep, ponies, goats, rabbits, snakes, poultry or other animals and fowl, except dogs and cats, within the corporate limits of the city, except with a permit from the city council.

Sec. 6-8. Application for permit to keep livestock.

Any person desiring to keep any horses, cattle, swine, sheep, ponies, goats, rabbits, snakes, poultry or other animals and fowl, except dogs and cats, within the corporate limits of the city shall make application in writing to the city clerk for permission of the city council to do so, describing particularly the following:

(1) The place where the applicant proposes to keep the animals or fowl;

(2) The number thereof;

(3) The distance from such place of keeping to the public streets and the boundary lines of such applicant's premises; and

(4) The distances to the dwelling houses and other structures situated upon the lands adjoining such proposed place.

Sec. 6-9. Issuance of livestock permit.

All applications under this article shall be submitted by the city clerk to the county health officer for investigation and report and recommendation to the city council. If it shall appear to the city council, after receiving such report and recommendation, that it will not be detrimental to the health of any of the inhabitants of the city, or constitute a public nuisance, the city council may grant to the person applying therefore a permit in writing and signed by the city clerk, authorizing the applicant to keep the specified horses, cattle, swine, sheep, ponies, goats, rabbits, snakes, poultry or other animals and fowl, as applied for. Such permit shall set forth the place where the livestock may be kept, and the kind and number thereof, and shall require that they be kept in the manner as is set forth in the approved application for such permit. No person shall keep any of the aforesaid animals and fowl within the city contrary to the terms and conditions of the permit.

Sec. 6-10. Grounds for revocation of livestock permit.

No person keeping any of the animals or fowl, pursuant to permission of the city council under this article, shall keep the animals or fowl in a place which is not neat and sanitary or in violation of any rules and regulations for such keeping as may be made from time to time by the county health officer. Failure to comply with such regulations and rules shall be sufficient grounds for suspension or revocation of any livestock permit by the city council.

Sec. 6-11. Exemptions to chapter.

The provisions of this chapter shall not be construed or interpreted as applying to the keeping of any canary, parakeet or similar bird kept as a pet within any dwelling house or place of business within the city.

Secs. 6-12--6-30. Reserved.

ARTICLE II. DOGS

DIVISION 1. GENERALLY

Sec. 6-31. Sanitation of area of confinement.

(a) No person shall harbor or keep a dog at any place upon his property in the nature of a kennel or dog run, including any place where dogs are tied or chained, unless the kennel, run or place is cleaned on a daily basis so as not to create a nuisance by causing noxious odors.

(b) The owner, keeper or responsible person in charge of a dog shall promptly remove the dog's solid bodily waste from any public property or the property of another person.

(c) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 15.016; Ord. No. 703, Sec. 3, 12-17-87; Ord. No. 816, Sec. 6, 2-6-95)

Sec. 6-32. Public nuisance.

Every fierce, dangerous or vicious dog, or bitch while in heat, and every dog with a contagious disease, when running at large, is a public nuisance. It shall be the duty of the county animal warden or any peace officer to take up and confine any such dog, or, if necessary, to kill such dog at once, whether or not the same may be licensed. Every dog shall be deemed fierce, dangerous or vicious that shall run after, chase, or bite or attempt to bite any person.

(Code 1965, Sec. 15.015(a))

Sec. 6-33. Confinement of dog who has bitten a person.

When any person is bitten by a dog, it is the duty of such person or his parent or guardian and of the owner or keeper of the dog immediately to notify the county health officer. The owner or keeper of the dog, immediately and at his own expense, shall confine it securely for ten days at a place designated by the officer. Every physician shall, within 24 hours after his first professional attendance upon a person bitten by any dog having or suspected of having rabies, report to the county health officer the name, age, sex, and address of the person bitten.

(Code 1965, Sec. 15.015(b))

Sec. 6-34. Dog bitten by rabid animal.

Any dog bitten by an animal known or proved to be rabid shall be killed immediately by its owner, provided that any dog which was vaccinated at least three weeks before being bitten shall be confined for 90 days. At the end of the confinement period the dog shall be released if declared free of rabies by a licensed veterinarian. If, as determined by the veterinarian, the dog develops rabies during the period of confinement, the owner or keeper shall have it killed and properly disposed of.

(Code 1965, Sec. 15.015(c))

Sec. 6-35. Quarantine against rabies.

The county health officer may declare a quarantine against rabies within the city when, in his judgment, rabies exist to the extent that it is a danger to public health. Upon such declaration, all dogs within the city shall be confined on the premises of the owner or keeper, in a veterinary hospital or commercial dog kennel. After reasonable effort to capture any dog running at large during a period of quarantine, any peace officer may kill the dog and properly dispose of the body. A quarantine shall not be removed except by order of the county health officer.

(Code 1965, Sec. 15.015(d))

Sec. 6-36. Vicious dogs.

No person shall keep any dog known to be vicious and liable to attack and injure human beings unless such dog is securely kept so as to prevent injury to any person.

(Code 1965, Sec. 15.015(e))

Sec. 6-37. Unvaccinated dog.

No person shall keep any unvaccinated dog or any dog which has shown any symptom of rabies; provided, however, that if such dog has bitten a human being the dog shall be confined for a ten-day period. If the dog dies during the confinement period, the head shall be handled in conformance with procedures established by the county health officer.

(Code 1965, Sec. 15.015(e))

Sec. 6-38. Diseased dog.

Any dog which is unidentified as to owner and unlicensed with obvious symptoms of communicable or contagious disease shall be destroyed.

(Code 1965, Sec. 15.015(f))

Sec. 6-39. Keeper to cause dog to be killed.

It is the duty of any person who is the owner or keeper of any dog, the keeping of which is unlawful, to cause such dog to be killed. Failure to comply with this section, after knowledge by the owner or keeper of the fact which renders such keeping unlawful, shall constitute a misdemeanor and shall subject such owner or keeper to the penalties prescribed in section 1-13.

(Code 1965, Sec. 15.015)

Secs. 6-40--6-50. Reserved.

DIVISION 2. LICENSE

Sec. 6-51. Required; fees.

The owner or keeper of any dog over six months old shall cause his name with the name and description of the dog to be licensed to be registered with the city treasurer or treasurer of Van Buren County or Allegan County, and shall pay each year to the city treasurer or county treasurer a license fee as set by the Van Buren County or Allegan County board of commissioners. Each dog so licensed shall wear on its collar a metallic tag or check furnished by the city or the county with the number and year of licensing marked thereon.

(Code 1965, Sec. 15.011(a))

Sec. 6-52. Vaccination required prior to licensing.

Before any dog is licensed it shall be vaccinated against rabies by a licensed veterinarian, and the certificate of vaccination of such dog in Michigan or in another state or country in conformity with the vaccination requirements in this state shall be presented to the city treasurer or county treasurer when application is made for a license. No license shall issue until such certificate is furnished showing proper vaccination and that the period of immunity is unexpired. It shall be the duty of the owner or keeper of any dog to have such dog re-vaccinated for rabies within one week after expiration of each period of immunity.

(Code 1965, Sec. 15.011(b))

Sec. 6-53. Fee exception.

No license fee shall be charged for licensing of a seeing eye dog trained to lead a visually impaired person.

(Code 1965, Sec. 15.011(c))

Sec. 6-54. Expiration date.

Dog licenses shall expire on December 31 of each year and shall be renewed by March 1 of the following year.

(Code 1965, Sec. 15.011(d))

Sec. 6-55. Harboring unlicensed dogs.

Any person harboring or sheltering an unlicensed dog shall be guilty of a misdemeanor and subject to the penalties prescribed in section 1-13.

(Code 1965, Sec. 15.012)

Sec. 6-56. Permit for operating dog kennel required.

(a) No person shall operate a dog kennel or raise dogs for profit without first obtaining a permit from the city, and no such permit shall issue without prior inspection and approval of the animal control officer.

(b) A kennel is defined as any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs.

(Code 1965, Sec. 15.017(b), (c))

Chapters 7—9

RESERVED

Chapter 10

BUILDINGS AND BUILDING REGULATIONS*

***Cross reference(s)--**Community development, ch. 22; environment, ch. 30; fire prevention and protection, ch. 34; human relations, ch. 46; planning, ch. 62; streets, sidewalks and other public places, ch. 74; subdivisions, ch. 78; utilities, ch. 86.

State law reference(s)--State construction code act, MCL 125.1501 et seq., MSA 5.2949(1) et seq.

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Secs 10-231--10-261. Reserved

ARTICLE I. IN GENERAL

Sec. 10-1. Enforcement of chapter.

(a) Pursuant to the provisions of section 9 of Act No. 230 of the Public Acts of Michigan of 1972 (MCL 125.1501 et seq., MSA 5.2949(1) et seq.), as amended, the building inspector of the city is hereby designated as the enforcing agency to discharge the responsibilities of the city under such act. The city hereby assumes responsibility for the administration and enforcement of such act throughout its corporate limits.

(b) Unless prohibited by state law or specific provisions of this Code, the following officials are empowered to issue and serve appearance tickets for violations of this Code, for which fall into their respective jurisdiction:

(1) Chief of police, all other sworn police officers.

(2) Chief of fire department, assistant fire chief, fire marshall, and shift supervisor.

(3) Building inspector, code enforcement official.

(4) Zoning administrator.

(5) Harbor master.

(6) City manager.

(7) Public works director.

(Ord. No. 691, Sec. 15, 12-15-86; Ord. No. 716, Sec. 1, 10-13-88; Ord. No. 785, Sec. 1, 9-7-93)

Secs. 10-2--10-25. Reserved.

ARTICLE II. CONTRACTORS

Sec. 10-26. Registration required.

All contractors and builders are required to register with the city department of building and safety, and any state license must be verified before registration may be made, or work commenced within the city.

(Code 1965, Sec. 24.04(g); Ord. No. 691, Sec. 13, 12-15-86)

Sec. 10-27. Permit required; penalty.

A permit shall be obtained before beginning construction, alteration, or repair, using application forms furnished by the building official. Failure to obtain a permit before construction, alteration or repair will result in the doubling of the permit fee.

(Code 1965, Sec. 24.04(e); Ord. No. 691, Sec. 13, 12-15-86)

Sec. 10-28. Registration fees.

(a) The following fees are charged for registration:

Builder's registration	$5.00
Other types of contractors' registration . . .	5.00
Heating contractor's registration	5.00
Sign erector's registration	5.00

(b) The registrations described in subsection (a) of this section are issued for the calendar year and must be renewed each year.

(Code 1965, Sec. 24.04(g); Ord. No. 691, Sec. 13, 12-15-86)

Sec. 10-29. Property owners doing own work exempted from article requirements.

Property owners doing their own work are not considered to be contractors and are exempt from the requirements of this article.

(Code 1965, Sec. 24.04(g); Ord. No. 691, Sec. 13, 12-15-86)

Secs. 10-30--10-50. Reserved.

ARTICLE III. BUILDING CODE

DIVISION 1. GENERALLY

Sec. 10-51. Adoption of code.

The Michigan Building Code, as published by The Michigan Department of Consumer and Industry Services Bureau of Construction Codes, P. O. Box 30255, Lansing, Michigan 48909 and The International Code Council, 5203 Leesburg Pike, Suite 708 Falls Church, Virginia 22041, and as it may be amended from time to time, is hereby adopted as the Building Code of the City of South Haven in the State of Michigan; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Michigan Building Code are hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any prescribed in Section 10-53.

(Ord. No. 802, Sec. 1, 12-20-93; Ord. No. 852, Sec. 1, 11-2-97; Ord. No. 924, Sec. 1, 12-15-03)

State law reference(s)--Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Sec. 10-52. Purpose of code.

The purpose of the building code is to provide minimal standards for the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the city; to provide for the issuance of permits and collection of fees; and to prescribe penalties for violations thereof.

(Code 1965, Sec. 24.01(a); Ord. No. 691, Sec. 1, 12-15-86)

Sec. 10-53. Repealed.

(Ord. No. 802, Sec. 3, 12-20-93; Ord. No. 816, Sec. 7, 2-6-95; Ord. No. 852, Sec. 3, 11-2-97; Ord. No. 861, Sec. 1, 6-15-98; Ord. No. 924, Sec. 2, 12-15-03)

Sec. 10-54. Copies of code.

The clerk shall provide for copies of the Michigan Building Code, adopted by the provisions of this article, and such copies shall be readily available for inspection and for distribution to the public at all times at a fee to be set by council resolution from time to time.

(Code 1965, Sec. 24.01(c); Ord. No. 924, Sec. 1, 12-15-03)

Secs. 10-55--10-65. Reserved.

DIVISION 2. BUILDING PERMITS

Secs. 10-66--10-85. Reserved.

DIVISION 3. PLAN REVIEW

Sec. 10-86. Residential plan review fees.

A residential plan review will be performed at no cost for one- and two-family residential structures under 3,500 square feet. All other plans are reviewed for building code compliance at a fee of 1/1000th of project cost with a minimum of $75.00. The cost of the review is paid for by the person requesting the permit.

(Code 1965, Sec. 24.04(c); Ord. No. 733, Sec. 1, 4-16-90)

Sec. 10-87. Commercial and industrial plan review fees.

A fee schedule for each commercial and industrial plan review shall be paid in accordance with a fee schedule adopted from time to time by resolution of the city council.

(Code 1965, Sec. 24.04(c); Ord. No. 691, Sec. 9, 12-15-86; Ord. No. 915, 6-16-03)

Sec. 10-88. Revised plans and/or substitute plans.

Fees shall be based on portion of work redesigned. A charge for plan review and/or building permit shall be made on revisions. Minor addendum plans that do not alter space or change structural requirements may be exempted from this section.

(Code 1965, Sec. 24.04(c); Ord. No. 691, Sec. 9, 12-15-86)

Sec. 10-89. Fees for additional review; owner's responsibility.

The property owner, developer or contractor shall be responsible for any additional fees incurred by the city if plans are to be sent to BOCA International, the state or any private firm for additional technical plan review.

Note: Additional fees for zoning site plan review shall be charged pursuant to section 1407 of the city zoning ordinance, Ord. No. 653.

(Code 1965, Sec. 24.04(c); Ord. No. 691, Sec. 9, 12-15-86)

Secs. 10-90--10-100. Reserved.

DIVISION 4. PLANNING AND ZONING FEES

Sec. 10-101. Schedule of fees.

A fee schedule for planning and zoning shall be paid in accordance with a fee schedule adopted from time to time by resolution of the city council.

(Ord. No. 691, Sec. 14, 12-15-86; Ord. No. 915, 6-16-03)

Secs. 10-102--10-120. Reserved.

ARTICLE IV. ONE- AND TWO-FAMILY DWELLING CODE

Sec. 10-121. Adoption of code.

The Michigan Residential Code, as published by The Michigan Department of Consumer and Industry Services Bureau of Construction Codes, P. O. Box 30255, Lansing, Michigan 48909 and The International Code Council, 5203 Leesburg Pike, Suite 708 Falls Church, Virginia 22041, and as it may be amended from time to time, is hereby adopted by reference, as amended and supplemented in this article, as the one- and two-family dwelling code of the city.

(Ord. No. 691, Sec. 1, 12-15-86; Ord. No. 924, Sec. 1, 12-15-03)

State law reference(s)--Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Sec. 10-122. Purpose of code.

The purpose of the Michigan Residential Code is to regulate the fabrication, erection, construction, enlargement, alteration, repair, location and use of detached one- and two-family dwellings and their appurtenances and accessory structures, and to provide for the issuance of permits therefore.

(Ord. No. 691, Sec. 1, 12-15-86; Ord. No. 924, Sec. 1, 12-15-03)

Sec. 10-123. Copies of code.

The clerk shall provide for copies of the Michigan Residential Code adopted by the provisions of this article, and such copies shall be readily available for inspection and for distribution to the public at all times at a fee to be set by council resolution from time to time.

(Code 1965, Sec. 24.03; Ord. No. 691, Sec. 1, 12-15-86; Ord. No. 924, Sec. 1, 12-15-03)

Sec. 10-124. Repealed.

(Ord. No. 924, Sec. 2, 12-15-03)

Secs. 10-125--10-145. Reserved.

ARTICLE V. MECHANICAL CODE

Sec. 10-146. Adoption of code.

The Michigan Mechanical Code, as published by The Michigan Department of Consumer and Industry Services Bureau of Construction Codes, P. O. Box 30255, Lansing, Michigan 48909 and The International Code Council, 5203 Leesburg Pike, Suite 708 Falls Church, Virginia 22041, and as it may be amended from time to time, is hereby adopted by reference, as amended and supplemented in this article, as the mechanical code of the city.

(Ord. No. 691, Sec. 1, 12-15-86; Ord. No. 924, Sec. 1, 12-15-03)

State law reference(s)--Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Sec. 10-146.5. Repealed.

(Ord. No. 816, Sec. 8, 2-6-95; Ord. No. 924, Sec. 2, 12-15-03)

Sec. 10-147. Purpose of code.

The purpose of the mechanical code is to provide minimum regulations governing the design, installation and construction of mechanical systems, by providing reasonable safeguards to protect the public health and safety against the hazards of inadequate, defective or unsafe mechanical systems and installations.

(Ord. No. 691, Sec. 1, 12-15-86)

Sec. 10-148. Copies of code.

The clerk shall provide for copies of the Michigan Mechanical Code, adopted by the provisions of this article, and such copies shall be readily available for inspection and distribution to the public at all times at a fee to be set by council resolution from time to time.

(Ord. No. 691, Sec. 1, 12-15-86; Ord. No. 924, Sec. 1, 12-15-03)

Sec. 10-149. Appointment of code official.

Notwithstanding Section 10-1(a) of the Code of Ordinances, the Mechanical Official, as appointed by the City Council from time to time by resolution or contract, shall be the code official designated as the enforcing agency to enforce the provisions of and otherwise discharge the responsibilities of the City under the Mechanical Code.

(Ord. No. 850, 10-20-97; Ord. No. 856, Sec. 1, 4-20-98)

Sec. 10-150. Schedule of permit and inspection fees.

A fee schedule for planning and zoning shall be paid in accordance with a fee schedule adopted from time to time by resolution of the city council.

(Ord. No. 851, 10-20-97; Ord. No. 856, Sec. 2, 4-20-98; Ord. No. 915, 6-16-03)

Secs. 10-151--10-170. Reserved.

ARTICLE VI. PLUMBING CODE

Sec. 10-171. Adoption of code.

Pursuant to the provisions of Act No. 230 of the Public Acts of 1972 (MCL 125.1501 et seq., MSA 5.2949(1) et seq.), as amended, the Michigan Plumbing Code, as published by The Michigan Department of Consumer and Industry Services Bureau of Construction Codes, P. O. Box 30255, Lansing, Michigan 48909 and The International Code Council, 5203 Leesburg Pike, Suite 708 Falls Church, Virginia 22041, and as it may be amended from time to time, is hereby adopted by reference, as amended and supplemented in this article, and made a part of this Code as if fully set forth in this section, subject to the modifications and amendments as the city may make from time to time.

(Ord. No. 924, Sec. 1, 12-15-03)

State law reference(s)--Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Sec. 10-172. Purpose of code.

The purpose of the plumbing code is to establish minimum regulations governing the design, installation and construction of plumbing systems, by providing reasonable safeguards for sanitation to protect the public health against the hazards of inadequate, defective or unsanitary plumbing installations; to provide for the issuance of permits and for the collection of fees; and to prescribe penalties for violations.

Sec. 10-173. Repealed.

(Ord. No. 816, Sec. 9, 2-6-95; Ord. No. 924, Sec. 2, 12-15-03)

Sec. 10-174. Copies of code.

The clerk shall provide for copies of the Michigan Plumbing Code, adopted by the provisions of this article, and such copies shall be readily available for inspection and for distribution to the public at all times at a fee to be set by council resolution from time to time.

(Ord. No. 924, Sec. 1, 12-15-03)

Secs. 10-175--10-195. Reserved.

ARTICLE VII. ELECTRICAL CODE

Sec. 10-196. State electrical regulations adopted.

(a) The Michigan Electrical Code, pertaining to the licensing of electricians and electrical contractors, the inspection of electrical wiring and the adoption and enforcement of uniform minimum standards governing the licensing, installation and inspection of electrical wiring, "Electrical Administrative Act," effective date August 17, 1960, as published by The Michigan Department of Consumer and Industry Services Bureau of Construction Codes, P. O. Box 30255, Lansing, Michigan 48909, and as it may be amended from time to time, is hereby adopted by reference and shall be applicable in the city.

(b) Copies of such laws, rules and regulations are available to the public in booklet form in the office of the city clerk.

(Code 1965, Sec. 25.01; Ord. No. 924, Sec. 1, 12-15-03)

State law reference(s)--Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Sec. 10-197. Enforcing agency of electrical regulations.

Pursuant to the provisions of section 9 of Act No. 230 of the Public Acts of Michigan of 1972 (MCL 125.1501 et seq., MSA 5.2949(1) et seq.), as amended, the Electrical Official, as appointed by the City Council from time to time by resolution or contract, shall be the code official designated as the enforcing agency to enforce the provisions of and otherwise discharge the responsibilities of the City under the Michigan Electrical Code, subject to the rules of the Electrical Administration Act as defined in section 10-196.

(Code 1965, Sec. 25.02; Ord. No. 924, Sec. 1, 12-15-03)

Sec. 10-198. Electrical permit fees.

A fee schedule for planning and zoning shall be paid in accordance with a fee schedule adopted from time to time by resolution of the city council.

(Code 1965, Sec. 25.03; Ord. No. 915, 6-16-03)

Secs. 10-199--10-220. Reserved.

ARTICLE VIII. HOUSING CODE*

***Cross reference(s)--**Housing commission, Sec. 22-121 et seq.

Sec. 10-221. Saved from repeal.

Ordinance No. 570, enacted July 6, 1976, and entitled the Housing Ordinance, is retained and saved from repeal. Such ordinance shall be available for inspection at the office of the city clerk.

ARTICLE IX. DANGEROUS BUILDINGS AND STRUCTURES

Sec. 10-222. Dangerous building and structures ordinance.

This Ordinance shall be known and cited as the City of South Haven Dangerous Buildings and Structures Ordinance. An Ordinance to secure the public peace, health, safety and welfare of the residents and property owners of the City of South Haven, Van Buren County, Michigan, by regulating dangerous buildings and structures injurious to life or health; to provide for the means by way of hearings for the making safe or demolition of such dangerous buildings and structures; to provide for the appointment of a hearing officer; and to provide penalties for the violation of said ordinance; to provide for assessment of the cost of said making safe or demolition of dangerous buildings and structures. This Ordinance is adopted pursuant to MCL 117.3(k), MCL 117.4(i) and MCL 125.401, *et seq*.

(Ord. No. 942, 05-01-06; Ord No. 1009, Sec 1, 01-20-2014)

Sec. 10-223. Dangerous building and structures defined.

As used in this Ordinance, the term "dangerous building" means any building or structure, residential or otherwise, which has any of the following defects or is in any of the following conditions:

(a) A door, aisle, passageway, stairway, or other means of exit does not conform to the requirements of the fire code.

(b) A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building or structure is significantly impaired and the structure does not meet the minimum requirements of the building code of the city involving structural integrity.

(c) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.

(d) A portion of the building or structure has settled to an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the building code.

(e) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.

(f) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.

(g) The building or structure is damaged by fire, wind, or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants or criminals or enables persons to resort to the building or structure for committing a nuisance or an unlawful acts.

(h) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason, is unsanitary or unfit for human habitation, is in a condition that the health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

(i) A building or structure is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(Ord. No. 942, 05-01-06; Ord No 1009, Sec 1, 01-20-2014)

Sec. 10-224. Dangerous building unlawful.

It shall be unlawful for any owner, agent, lessee or party in interest to keep or maintain any building or part thereof which is a dangerous building or structure as defined in this ordinance.

(Ord. No. 942, 05-01-06; Ord No 1009, Sec 1, 01-20-2014)

Sec. 10-225. Notice of dangerous building; Contents service.

(a) Notwithstanding any other provision of this act, if a building or structure is found to be a dangerous building, the enforcing agency, being the South Haven Building Inspection Department, shall issue a notice that the building or structure is a dangerous building.

(b) The notice shall be served on the owner, agent, or lessee that is registered with the enforcing agency. If an owner, agent, or lessee is not registered with the Building Inspection Department, the notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.

(c) The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building. The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.

(d) The hearing officer shall be appointed by the mayor to serve at his or her pleasure. The hearing officer shall be a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. An employee of the enforcing agency shall not be appointed as hearing officer. The enforcing agency shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.

(e) The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner

or party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing included in the notice.

(Ord. No. 942, 05-01-06; Ord No 1009, Sec 1, 01-20-2014)

Sec. 10-226. Hearing.

(a) At a hearing, the hearing officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not more than 5 days after completion of the hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.

(b) If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall enter an order that specifies what action the owner, agent, or lessee shall take and sets a date by which the owner, agent, or lessee shall comply with the order. If the building is a dangerous building under the provisions of this Ordinance, the order may require the owner or agent, to bring and maintain the exterior of the building and adjoining grounds into compliance with Sections 30-91 and 30-92 of the South Haven City Code.

(Ord. No. 942, 05-01-06; Ord No 1009, Sec 1, 01-20-2014)

Sec. 10-227. Appeal to Construction Board of Appeals.

(a) If the owner, agent, or lessee fails to appear or neglects or refuses to comply with the order issued under Section 10-226(b), the hearing officer shall file a report of the findings and a copy of the order with the construction board of appeals not more than 5 days after the date for compliance set in the order and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent, or lessee in the manner prescribed above.\

(b) The construction board of appeals of the city shall set a date not less than 30 days after the hearing for an appellate hearing on the findings and order of the hearing officer. The construction board of appeals shall give notice to the owner, agent, or lessee in the manner prescribed above of the time and place of the hearing. At the hearing, the owner, agent, or lessee shall be given the opportunity to show cause why the order should not be enforced. The construction board of appeals of the city shall either approve, disapprove, or modify the order. If the construction board of appeals approves or modifies the order, the city shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within 60 days after the date of the hearing under this subsection. For an order of demolition, if the construction board of appeals of the city determines that the building or structure requires expedited demolition because it has been substantially destroyed by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause, the owner, agent, or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, there exists a rebuttable presumption that the building or structure requires expedited demolition. The owner of a building or structure determined to be in need of expedited demolition may, in writing, waive the

21-day period for complying with the order, consent to demolition by the city, and consent to the city's lien for the cost of demolition.

(c) After the hearing officer issues an order of demolition, the owner of the building or structure may submit a written petition to the city manager requesting an expedited appellate hearing before the city council. Such petitions shall be placed on the agenda for consideration at the next regularly scheduled meeting of the city council. The owner or his or her representative shall appear at the meeting to show cause as to why an expedited hearing should be granted. The city council may then, at its discretion, vote to conduct the hearing at that same meeting.

(d) The cost of demolition includes, but is not limited to, legal fees and expenses, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this Ordinance. The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure incurred by the city to bring the property into conformance with this act shall be reimbursed to the city by the owner or party in interest in whose name the property appears.

(e) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the assessor of the amount of the cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the assessor of the notice of the amount of the cost, the city shall have a lien for the cost incurred by the city to bring the property into conformance with this act. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(Ord. No. 942, 05-01-06; Ord No 1009, Sec 1, 01-20-2014)

Sec. 10-228. Additional remedies.

In addition to the other remedies provided under this Ordinance, the city may:

(a) Bring an action against the owner of a dangerous building or structure to recover the full cost of demolition, of making the building safe, or of maintaining the exterior or grounds adjoining a dangerous building or structure. The city shall have a lien on the property for the amount of a judgment obtained under this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

(1) A judgment in an action brought pursuant to this Ordinance may be enforced against assets of the owner other than the dangerous building or structure.

(2) The city shall have a lien for the amount of a judgment obtained against the owner's interest in all real property located in this state that is owned in whole or

in part by the owner of the dangerous building or structure against whom the judgment is obtained.

(b) Recover the full cost of demolition of a dangerous building or structure or of maintaining the exterior or grounds adjoining a dangerous building or structure by single-lot special assessment pursuant to Section 72-18 of this Code.

(c) In addition to the remedies above, a person who fails or refuses to comply with an order approved or modified by the construction board of appeals within the time prescribed by the order is guilty of a misdemeanor, punishable by imprisonment for not more than 120 days, or a fine of not more than $1,000.00, or both.

(Ord. No. 942, 05-01-06; Ord. No. 986, 09-21-2010; Ord No 1009, Sec 1, 01-20-2014)

Sec. 10-229. Appeal to circuit court, scope of appeal.

(a) An owner or party in interest aggrieved by any final decision of the construction board of appeals may appeal the decision or order to the Circuit Court for the County of Van Buren by filing an appeal within twenty one days from the date of such decision. Upon appeal the Circuit Court shall review the record and decision of the board of appeals to ensure that the decision:

(1) Complies with the constitution and laws of the state.

(2) Is based upon proper procedure.

(3) Is supported by competent, material, and substantial evidence on the record.

(4) Represents the reasonable exercise of discretion granted by law to the board of appeals.

(b) If the court finds the record of the construction board of appeals inadequate to make the review required by this ordinance, or that there is additional evidence which is material and with good reason was not presented to the construction board of appeals, the court shall order further proceedings before the construction board of appeals on conditions which the court considers proper. The construction board of appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decision shall be filed with the court.

(c) As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the construction board of appeals.

(Ord. No. 942, 05-01-06; Ord No 1009, Sec 1, 01-20-2014)

Sec. 10-230. Orders issued prior to the sunset of Ordinance 942.

Any order issued by a hearing officer or by the construction board of appeals prior to May 1, 2014, shall remain in effect and shall be treated as if issued under this Ordinance.

(Ord. No. 942, 05-01-06; Ord No 1009, Sec 1, 01-20-2014)

Sec. 10-231--10-241. Reserved

Editor's note--Ord. No. 980, Sec. 1, adopted April 19, 2010, repealed Sec. 10-255 through 10-261, which pertained to Short Term Rental Dwelling Registration.

ARTICLE X. SHORT-TERM RENTALS

Sec. 10-241. Purpose.

The City Council finds that the short-term rental of dwellings and dwelling units within the City of South Haven is a matter closely connected with the public health, safety and welfare of the community. The City Council has enacted this regulatory ordinance in an attempt to strike an appropriate balance between the interests of community residents, community business owners, visitors to the community, and real property owners wishing to engage in short-term rental of dwellings and dwelling units.

While visitors to the community who rent dwellings and dwelling units on a short-term basis bring many benefits to the community, they can simultaneously create concerns surrounding issues of traffic, parking, congestion, litter, noise, and other similar issues. Meanwhile, issues related to fire safety and life safety codes must be considered in order to maximize the safety and well-being of all in the community. This article is intended to strike the appropriate balance between competing interests.

In striking that balance, the City Council finds that residential properties are primarily situated in single-family residential neighborhoods which are significantly different in character from the mixed-use areas of the City. Residential neighborhoods and mixed-use areas have different tolerances and expectations regarding sounds, parking, congestion, privacy, entertainment, and other activities.

The City Council finds that there is decreased sensitivity to larger occupant loads within the mixed-use areas of the City, given the comparatively larger lot sizes, increased spacing between structures, louder average noise levels, and greater amounts of available parking, compared to conditions existing in single-family residential neighborhoods.

For these reasons, the City Council has determined that mixed-use areas of the City are more appropriate for higher numbers of occupants to be allowed in dwelling units during a short-term rental compared to the single-family residential neighborhoods of the City.

Sec. 10-242. Definitions.

When used in this article, the following words and phrases shall have the meanings ascribed to them in this section:

(a) *Bedroom* – A room intended for sleeping or placement of a bed, separated from other spaces in the dwelling unit by one or more functional doors. The following spaces, which must be included in every dwelling unit, do not qualify as bedrooms: (1) kitchens; (2) dining areas; (3) gathering spaces such as family rooms, dens, or living rooms; and (4) attics or basements without egress meeting standards in applicable building, residential, and fire codes.

(b) *Building Official* – The official defined in MCL 338.2302, who is given authority to administer and enforce adopted building, electrical, mechanical, or plumbing codes for the City of South Haven.

(c) *City Manager* – The City Manager of the City or the City Manager's designee.

(d) *Compensation* – Money or other consideration given in return for occupancy, possession or use of a property.

(e) *Dwelling* – A building containing one or more dwelling units.

(f) *Dwelling unit* – A self-contained unit within a building that is designed for human occupancy and provides complete living facilities, including permanent provisions for sleeping, eating, cooking and sanitation.

(g) *Fire Chief* – The chief designated by the South Haven Areas Emergency Services Authority.

(h) *Good visitor guideline materials* – Materials prepared by the City's Zoning Administrator that include: (1) a summary of the City's noise ordinance (chapter 30, article II), fireworks ordinance (section 54-167), trash disposal ordinances (chapter 30, article IV and Chapter 70), and applicable offenses against the public peace (chapter 54, article V), (2) a reminder that the rental property is located in a residential neighborhood and that neighbors may not be vacationing, and (3) a statement informing the renters that neighboring property owners may contact the local agent and local police to report any issues relating to the property.

(i) *Local agent* – An individual designated to oversee the short-term rental of a dwelling unit in accordance with this article and to respond to calls from renters, concerned citizens, and representatives of the City. The local agent must live or maintain a physical place of business within 45 miles of the dwelling unit used for short-term rentals. A property owner who meets these criteria may be the local agent.

(j) *Mixed use property* – A lot or parcel located within an area of the City where both multi-family residential and commercial development is permitted, as in the RM-1, R-2 and B-3 zoning districts.

(k) *Newly constructed dwelling unit* – Any dwelling unit the initial construction of which was completed after April 18, 2016.

(l) *Newly enlarged dwelling unit* – Any dwelling unit to which improvements made to increase the size of the dwelling unit were completed after April 18, 2016.

(m) *Newly rented dwelling unit* – Any dwelling unit that was not used for short-term rentals for at least 15 days during the 2015 calendar year or a previous calendar year.

(n) *Occupant* – An individual at least 24 months of age who is living in, sleeping in, or otherwise having possession of a space. An individual present in a dwelling unit during the term of a short-term rental shall be presumed to be an occupant unless circumstances clearly indicate that the individual is visiting between the hours 8:00 a.m. and 11:00 p.m. and will not stay overnight.

(o) *Residential property* – A lot or parcel within any of the R-1 zoning districts.

(p) *Short-term rental* – The rental of a dwelling unit for compensation for a term of 2 nights to 29 nights. However, the rental of the following facilities shall not be considered short-term rentals: (i) attached dwelling units in a multi-family dwelling condominium project, and (ii) transitional houses operated by a charitable organization, group homes such as nursing homes and adult-foster-care homes, substance-abuse rehabilitation clinics, mental-health facilities, and other similar health-care related facilities.

Sec. 10-243. Registration required.

(a) *Registration required.* All dwelling units on mixed-use property or residential property used for short-term rentals shall be registered with the City. The short-term rental of an unregistered dwelling unit is prohibited.

(b) *Application*. To register a dwelling unit used for short-term rentals, the property owner or agent of the owner shall:

(1) Provide and certify as true the following on a form provided by the City:

a. Name, address, and telephone number of the local agent for the dwelling unit.

b. The street address of the dwelling unit, along with other identification if more than 1 dwelling unit has the same street address.

c. The number of dwelling units in the building, if more than one.

d. The number of bedrooms in each dwelling unit, and in the dwelling as a whole.

e. The number of off-street parking spaces provided for the dwelling unit.

f. The maximum number of occupants to which the applicant intends to rent the dwelling unit in any given rental period.

g. The length of the typical rental period for which the applicant intends to rent the property.

h. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner or local agent will check those devices at least every 90 days.

i. A statement certifying that the property owner consents to inspections by the City and will make the dwelling unit available to inspections upon request.

j. A statement certifying that the property owner or a local agent will provide at least one copy of the City's good visitor guideline materials to the renters each time the dwelling unit is rented.

k. A statement certifying whether or not the dwelling unit was used as a short-term rental for at least 15 days during the 2015 calendar year or a previous calendar year.

l. Such other information as the City deems appropriate.

(2) Pay an administrative fee, as set by resolution of the City Council. Any owner of a dwelling unit or a local or other agent for that owner who rents a dwelling unit on a short term rental after July 15, 2016, without having registered it pursuant to this ordinance shall pay an increased fee in the amount also set by resolution of the City Council.

Sec. 10-244. Short-term rental regulations.

(a) *Local agent required.* All dwelling units used for short-term rentals shall have a designated local agent.

(b) *Contact information posted in window*. A notice shall be posted in a prominent first-floor window of any dwelling unit used for short-term rentals stating (in at least 16-point type) the name of the local agent, a 24-hour telephone number with which the agent can be reached, and the maximum occupancy of the dwelling unit as permitted by this ordinance.

(c) *Street address posted within dwelling unit*. The street address of the property shall be posted in at least two prominent locations within the dwelling unit in order to assist occupants in directing emergency service personnel in the event of an emergency. The address should be posted near the kitchen and near any telephone or pool.

(d) *Maximum occupancy*. Beginning January 1, 2017, the maximum occupancy of any dwelling unit used for short-term rentals shall be calculated as follows:

(1) *Maximum occupancy established.* Except as otherwise provided in subsection (d)(2) or (d)(3), the number of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of: (i) 16 total occupants; or (ii) 2 occupants per bedroom plus two additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code.

(2) *Newly constructed, newly enlarged, and newly rented dwelling units*. For newly constructed, newly enlarged, or newly rented dwelling units on residential property, the number of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of: (i) 12 total occupants; or (ii) 2 occupants per bedroom plus two additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code.

(3) *Applications for increase*. An owner or local agent may apply for permission to have the maximum occupancy of a dwelling unit on mixed use property increased above the maximum of 16 total occupants established in Section 10-244(d), to the lesser of: (i) 24 total occupants; or (ii) 2 occupants per bedroom plus 2 per finished floor. Applications for increase shall be submitted to and decided by a committee comprised of the City Manager or his or her designee, the City's Director of Public Works or his or her designee, and the Police Chief or his or her designee. Applications shall be submitted on a standard form provided by the City, and shall be accompanied by any applicable fee established by resolution of the City Council. The committee shall decide an application for increase in a public meeting with advance notice of that meeting given to owners of real property within 300 feet of the boundaries of the property for which an application for increase has been filed. The committee shall grant the application only upon determining that subsections (d)(3)(A) and (d)(3)(B) below are both satisfied:

a. All of the following are provided:

    1. A parking site plan allowing sufficient access for emergency vehicles.

    2. An automatic sprinkler system on all floors with one or more bedrooms.

    3. A fire alarm system.

    4. An interconnected smoke alarm system.

    5. Fire-rated corridors.

    6. Fire-rated stairwell enclosures on all stairways providing the primary means of egress for one or more bedrooms.

    7. Automatic door closers and fire-rated doors on all bedrooms.

    8. A sufficient number of emergency exits, suitably placed in relation to the designated bedrooms, as determined in the discretion of the committee.

b. Due to one or more of the following features or other similar features of the applicant's property, an increased maximum occupancy would not have an adverse effect on surrounding properties:

    1. Isolation from properties used as residential dwellings.

    2. Size of the setbacks on the property.

    3. Provision of fencing or other screening from adjoining properties.

    4. Topography and layout of the applicant's property, or of the adjoining properties.

5. Other characteristics and uses of properties within the vicinity of the applicant's property.

(e) *Smoke detectors and carbon monoxide devices*. The owner or local agent of a dwelling unit used for short-term rentals shall:

(1) Install and maintain an operational smoke detector in each bedroom, and test such smoke detectors at least every 90 days to ensure that they are properly functioning.
(2) Install and maintain at least 1 operational approved carbon monoxide device of the type described in MCL 125.1504 on each floor, and test such devices at least every 90 days to ensure that they are operational.

(f) *Fireworks*. No fireworks shall be used on the premises of a dwelling unit registered under this ordinance when it is occupied by anyone other than the owner.

(g) *Zoning compliance.* Short-term rentals are regulated in the South Haven Zoning Ordinance, and nothing in this article shall be construed as excusing compliance with zoning requirements.

(h) *Attics and basements*. No attic or basement can be counted for the purpose of determining the maximum number of occupants in a dwelling unit during a short-term rental, unless the property owner or local agent has given the City, in writing, consent for the City to inspect the premises to verify whether that attic or basement meets the applicable egress requirements for occupancy in the Michigan Construction Code, the Michigan Residential Code and the applicable fire codes.

Sec. 10-245. Violations; revocation of registration.

(a) *Violations as municipal civil infractions.* Any violation of a provision of this article shall be a municipal civil infraction. Each day that a violation continues constitutes a separate violation. Notwithstanding any other provision of this Code of Ordinances, violations of this article are subject to the following fines:

(1) *Short-term rental of unregistered dwellings.* The fine for leasing an unregistered dwelling unit in violation of subsection 10-243(1) is $750 for a first violation and $1,000 for each subsequent violation.

(2) *Maximum occupancy*. The fine for exceeding the maximum occupancy in violation of subsection 10-244(d) is $500 for a first offense and $1,500 for each subsequent offense.

(3) *Other provisions*. Fines for other violations of this article are as follows: $100 for a first offense, $500 for a second offense, and $1,500 for each subsequent offense.

(b) *Revocation of registration*.

(1) *Offenses warranting revocation.* The City may revoke the rental registration for any dwelling unit which is the site of at least 3 separate incidents (occurring on 3 separate days) within a calendar year resulting in a plea of responsibility (with or without an explanation), a plea of guilty, a plea of no contest, or a court's determination of responsibility or guilt by the owner, local agent, or any renter for a violation of one or more of the following:

(A) Any provision of this article.
(B) Chapter 30, Article II of the City Code – Noise.

(C) Chapter 30, Article III of the City Code – Controlled Substances.

(D) Chapter 30, Article IV of the City Code – Unwholesome Substances (Junk, Rubbish, and Noxious Weeds).

(E) Chapter 54, Article V of the City Code – Offenses Against Public Peace.

(F) Chapter 70, Article II of the City Code – Solid Waste (Provision and Use of Trash Containers).

(G) Any violation of the Zoning Ordinance or any permit or approval issued pursuant to the Zoning Ordinance.

(2) *Revocation Procedure.* Upon a determination by the zoning administrator that the registration of a dwelling unit is subject to revocation pursuant to subsection (b)(1), the zoning administrator shall issue a notice to the property owner and the local agent stating that the City intends to revoke the rental registration. The notice shall inform the owner and local agent of a right to a hearing to show cause as to why the registration should not be revoked, if a hearing is requested within 14 days of the service of the notice. If a hearing is timely requested, the City shall schedule the hearing before the City Manager and notify the owner and local agent in writing of a time and place for that hearing. At the hearing, the owner and local agent may present evidence that the requirements for revocation provided in subsection (b)(1) are not satisfied, or that the property owner and local agent should not be held responsible for one or more of the three requisite violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as: (i) the violation was committed by a non-renter and the renter(s) attempted to prevent or halt the violation; (ii) the violation resulted from an act of God; or (iii) other circumstances that the owner or the owner's agent could not reasonably anticipate and prevent, and could not reasonably control.

(3) Revocation Period and Effect. Upon revocation of registration, a dwelling unit cannot be re-registered for a period of 1 year, and cannot be used for short-term rentals until re-registered.

Sec. 10-246. Review after implementation; public hearing required before amendment or repeal.

(a) *Review after implementation*. Not later than November 1, 2016, the Planning Commission shall begin a review of this article to determine whether its implementation has achieved its intent and what, if any, amendments to should be made to this article.

(b) *Public hearing required*. The City Council shall hold a public hearing before amending or repealing any provision of this article, publishing notice in a newspaper of general circulation in the City and posting notice in City Hall and on the City's website at least 15 days prior to such meeting.

(Ord. NO. 1026, Sec. 1, 05-29-2016)

Sec. 10-247-10-261. Reserved.

Chapters 11—13

RESERVED

Chapter 14

BUSINESSES*

***Cross reference(s)--**Health and sanitation, ch. 42; planning, ch. 62; secondhand goods, ch. 66; vehicles for hire, ch. 90.

State law reference(s)--Home solicitation sales, MCL 445.111 et seq., MSA 19.416(201) et seq.; transient merchants, MCL 445.371 et seq., MSA 19.691 et seq.; exemption for veteran's license, MCL 35.441, MSA 4.1241.

Article I. In General

Secs. 14-1--14-25. Reserved.

Article II. Business Licenses

Division 1. Generally

Sec. 14-26. Required.
Sec. 14-27. Application.
Sec. 14-28. Signing, sealing, numbering, posting.
Sec. 14-29. Reserved.
Sec. 14-30. Denial, revocation, suspension; causes enumerated.
Sec. 14-31. Fees.
Secs. 14-32--14-40. Reserved.

Division 2. Specific Occupations

Sec. 14-41. Reserved.
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ARTICLE I. IN GENERAL

Secs. 14-1--14-25. Reserved.

ARTICLE II. BUSINESS LICENSES

DIVISION 1. GENERALLY

Sec. 14-26. Required.

No person shall, directly or indirectly, operate, conduct, maintain, manage, or engage in any trade, profession, business, occupation or privilege on premises in the city for which a license is required by this Code, without first obtaining such license in the manner prescribed in this article unless otherwise specifically provided in this article.

(Ord. No. 893, 3-11-02)

Sec. 14-27. Application.

Each person or entity required to procure a license from the city shall make application for such license to the city clerk in the form and manner prescribed by the clerk and shall state, under oath, such facts as may be required for, or applicable to, the granting of such license, including but not limited to the following:

(1) Full names, business addresses and residence addresses of all owners, providers, officers, managers and local employees of applicant's business; the names and addresses of each officer if applicant is a corporation;

(2) The place or places in the city where it is proposed to maintain applicant's business, the length of time during which it is proposed that such business be conducted, and whether the activity complies with all zoning regulations and other similar requirements imposed by this Code;

(3) The nature, character and quality of the goods, wares, merchandise or services to be sold or offered for sale by applicants;

(4) The nature and kind of business which applicant proposes to conduct and the manner of operating same;

(5) List of all assumed, trade or firm names under which applicant intends to do business;

(6) The nature and character of advertising done or proposed to be done in order to attract customers;

(7) 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 municipal ordinance, and, if so, full particulars in connection therewith.

(Ord. No. 893, 3-11-02)

Sec. 14-28. Signing, sealing, numbering, posting.

Each license shall be signed by the city clerk and be attested by the seal of the city. Each license so issued shall be numbered and each license shall be posted in a conspicuous place in or about the premises so licensed, where such posting is practicable. The city clerk shall keep a full record in the clerk's office of all licenses issued. Such record shall contain the number of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of the license, the place where the business may be carried on under the license, and the name of the person authorized to conduct the business.

(Ord. No. 893, 3-11-02)

Sec. 14-29. Reserved.

Sec. 14-30. Denial, revocation, suspension; causes enumerated.

(a) The issuance of licenses applied for under this code may be denied by the city clerk, and licenses issued may be revoked or suspended by the city manager at any time, for any of the following causes:

(1) Fraud, misrepresentation or any false statement made in the application for license;

(2) Fraud, misrepresentation or any false statement made in the operation of a business;

(3) Any violation of this Code;

(4) Failure to obtain any license or permit required by the state to operate such business or trade;

(5) Conducting a business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, morals, safety or welfare of the public;

(6) Failure or inability of an applicant to meet and satisfy the requirements and provisions of this Code.

(b) Written notice of suspension or revocation, stating the cause or causes therefore, shall be delivered to the licensee personally or mailed to the licensee's address as shown in the application for license.

(c) Any person whose license is revoked or suspended or any person whose application is denied shall have the right to a hearing before the city council, or such officer or board as the council may designate, provided written request therefore is filed with the city clerk within ten days following the delivery or mailing of the notice of revocation or suspension, or within ten days following the denial of the application for license.

(d) The city council may reverse any determination to issue or to deny the issuance of a license or any revocation of a license, and the city council may grant or reinstate any license. No person shall operate any business during any time when the license therefore has been suspended, revoked or canceled.

(Ord. No. 893, 3-11-02)

Sec. 14-31. Fees.

(a) No license shall be issued until the required fees shall be paid.

(b) The fees required to be paid under this section shall be paid in accordance with the fee schedule adopted from time to time by resolution of the city council.

(Ord. No. 893, 3-11-02)

Sec. 14-32--14-40. Reserved.

DIVISION 2. SPECIFIC OCCUPATIONS

Sec. 14-41. Reserved

Sec. 14-42. Pawnbrokers

No person shall pursue the business of pawnbroker or of operating a pawnshop within the city without a license therefore. The business must adhere to all state licensing requirements. The license fee is $100.00 per year.

(MCLA 446.201.; Ord. No. 893, 3-11-02)

Sec. 14-43. through 14-44. Reserved

Sec. 14-44.1. Title.*

***Editors note –** Ord. No. 858, adopted May 18, 1998, amended Section 14-44 in its entirety to read ad herein set out in Sections 14-44.1 – 14-44.10 and repealed Sections 14-45, 14-47, 14-54, 14-60, 14-61, 14-62. The former Section 14-44 derived from Code 1965, Sec. 31.05 and Ord. No. 776, Sec. 2(301.05) adopted February 1, 1993. The former Sections 14-45, 14-47, 14-54, 14-60-14-62 derived from Code 1965.

This Ordinance shall be known and may be cited as the “Street Vendor Ordinance.”

(Ord. No. 858, 5-18-98; Ord. No. 893, 3-11-02)

Sec. 14-44.2. Definitions.

(a) Street Vendor Definitions.

(1) *Cart Vendor*: Operator of a mobile vending cart between the hours of 8:00 a.m. and 10:00 p.m. in specified street vending areas on the public right of way or on public property.

(2) *Concession Vendor*: Operator of a stationary, removable stand which may remain on a single site for the entire period of the vendor license, and which may have water, sewer and power hook-ups.

(3) *Day Vendor*: Operator of a removable stand or mobile vending cart from a single location approved by the City Council. The removable stand or mobile vending cart must be removed every evening after the vending hours. The day vendor shall be located on public right of way or public property.

(4) *Festival Vendor*: Operator of a removable stand or mobile vending cart licensed for a limited, specific period in association with a festival blanket vendor license. The removable stand or mobile vending cart may be left on the site for the duration of the license, and may be located on private property. The festival vendor shall be licensed by the festival organization which has been approved by the City Council to organize a special event with a blanket vendor license.

(5) *Vendor*: For purposes of this Article, Vendor shall be defined as a Concession Vendor, Festival Vendor, Day Vendor or Cart Vendor.

(6) *Established Business*: A business legally occupying a permanent structure.

a. A business operator located on the right-of-way adjacent to an established business selling goods, wares and merchandise on outdoor display, which are not available in the established business, shall be considered a vendor for the purpose of this ordinance.

b. A business operator located on the right-of-way adjacent to an established business selling goods, wares and merchandise on outdoor display, which are not the property of or not on consignment to the established business, shall be considered a vendor for the purpose of this ordinance.

c. An established business operator selling goods, wares and merchandise from an established business, on outdoor display in the right-of-way adjacent to the established business, is not considered a vendor for the purpose of this ordinance.

(b) Definitions of Vending Stands and Carts.

(1) *Mobile Vending Cart* shall mean a structure not exceeding forty-two (42) inches in width with at least two (2) operation wheels and which is movable by one (1) person without assistance, the primary purpose of which is for vending purposes.

(2) *Removal Stand* means a non-motorized vending trailer or shed, tent or other removable vending stand.

(c) Definitions of Vending Location.

(1) *Concession Location*: A site where a concession vendor places a removable stand for the duration of the vending season. Concession locations are established by City Council Resolution, and are valid for up to one vending season. The fee may be a flat concession fee, a negotiated fee, or the location may be offered to the highest bidder. The location may be on any City property or right of way, as approved by the City Council. Vendors may request that a location be considered for a concession.

(2) *Day Vendor Location*: Sites suitable for a removable stand or mobile vending cart to remain stationary on site all day, removing the stand or cart after vending hours. The location may be on City property or right of way, as established by City Council Resolution. Approval of the Day Vendor location means the Vendor has an exclusive right to the location for the period of the license. The license, however, is personal to the Day Vendor and not transferable or assignable. Vendors may request a specific location be considered for Day Vending.

(3) *Festival/Event Blanket Vendor License Location*: Vendor sites in an area approved under a Festival Blanket Vendor License for a specified period of time. The area in which may Vendors may operate is designated in a festival special event application. The City Council shall approve the special event and festival blanket vendor license by resolution. The festival organization approves vendors based upon their own criteria.

(4) *Street Vending Areas*: Areas specified for mobile vending carts as established by resolution of the City Council. They may include parks, right of ways, public parking areas, parkways, city buildings and grounds, sidewalks, public institutions, or vacant city property at the option of the City council. Mobile vending cars may remain in one location in an area all day, or they may move in or between street vending areas. Cart Vendors do not have an exclusive right to location. Cart Vendors shall not block sidewalks, cause traffic congestion, or operate within 200 feet of an established business, concession vendor or day vendor.

(Ord. No. 858, 5-18-98; Ord. No. 893, 3-11-02)

Sec. 14-44.3. Number of licenses for each vending area.

The City Council shall by resolution establish the number and types of vendors by area. Except for Festival/Event Blanket Vendor Licenses, no Vendor licenses shall be granted in the Central Business District as indicated on the zoning map of the South Haven Zoning Ordinance.

(Ord. No. 858, 5-18-98; Ord. No. 893, 3-11-02)

Sec. 14-44.4. Festival/event blanket vendor license.

The license limitations may be expanded or waived during the following annual events, and other events which the City Council may determine by resolution. During any of these events, the City Council, by resolution, may authorize the issuance of additional street vendor licenses to such a number as deemed to be in the best interests of the City.

(1) Harborfest, Blueberry Festival: No Vendors shall be allowed in the Central Business District except by City Council approval.

(2) The City Manager shall be empowered to issue a special event blanket vendor license to a valid local not-for-profit organization sponsoring and operating a special community event within a specified area of the City. No person, group or organization shall sell any food, merchandise, goods, services, amusements, rides or other items on any public street, alley, sidewalk or other public property within the special event area during the time of the special event without first being approved by the sponsoring not-for-profit organization overseeing the special community event.

(Ord. No. 858, 5-18-98; Ord. No. 893, 3-11-02)

Sec. 14-44.5. Vendor operation from private property prohibited; exceptions.

No license shall be granted for sales from a removable stand, mobile vendoring cart, vehicle or other method of selling or display operating on private property, except for:

(1) Farmers or nursery owners selling his or her own production, and

(2) Vendors associated with a festival/event blanket vendors license, and

(3) Vendors on private property in the B-2 General Business District and B-4 Major Thoroughfare Business District who have met the standards of the zoning ordinance for outdoor display of goods; however no more than two such licenses shall be issued for a lot of record per year, and no such license shall be issued for a period of more than two (2) weeks.

(Ord. No. 858, 5-18-98; Ord. No. 893, 3-11-02)

Sec. 14-44.6. License; fees and application.

(a) *License required; exceptions*: It shall be unlawful for any person to engage in business as a Vendor within the City without first having obtained a license from the City Clerk as provided in this division.

(b) *License term*: The term for a Vendor License shall be April 1 through October 31 of the year issued.

(c) *Application*:

Before any license shall be issued:

(1) The application must be approved by the Director of Public Safety;

(2) The applicant shall obtain a Michigan Sales Tax Number;

(3) An applicant selling food shall have a permit from the Van Buren County Health Department; and,

(4) The applicant shall provide the City Clerk with satisfactory proof of insurance in an amount and kind deemed sufficient by the City Council and naming the City of South Haven as an additional insured.

(d) *Delinquent personal property taxes*: No license shall be granted to any person owing any personal property taxes or other indebtedness to the City, or who contemplates using any personal property, in the operation of such business, on which personal property taxes are owing.

(e) *Fees*: Fees for the various categories of Vendors shall be established by the City Council by resolution.

(f) *Application*: An applicant shall file with the City Clerk a written application, upon a form provided for that purpose. The following information is required in the application:

(1) Name, address, date of birth, driver's license number, and telephone number of the applicant;

(2) The criminal history of the applicant;

(3) The nature, character and quality of the goods or services offered for sale or delivery;

(4) Proof that the applicant possesses a valid retail vendors sales tax permit from the Michigan Department of Treasury, if a sales tax permit is required for the type of proposed operation;

(5) The nature of the proposed advertising to be done for the business at the proposed location;

(6) License number of any vehicle which is to be used;

(7) Nature of business and method of distributing products;

(8) Nature of License requested and proposed location;

(9) Dates and times of operation being requested;

(10) Names and addresses of employees or agent who will be assisting the applicant in the proposed business;

(11) Proof that the applicant possesses all licenses or permits required by this municipality, Van Buren County or State of Michigan for the operation of the proposed business;

(12) Any other information which is required by the City Manager to clarify items on the application.

(g) *Issuance of License*: When an application has been filed with the appropriate fee with the City Clerk, the same shall be forthwith transmitted to the City Manager. The City Manager shall initiate appropriate action to process the application. The City Manager shall make an

appropriate investigation of the applicant, which may include but is not limited to, an inspection of the stand, cart, and place of location, to insure compliance with this Ordinance. The City Manager shall issue license to the applicant within thirty (30) days after receipt of the application, unless the City Manager finds one or more of the following to be true:

(1) The applicant is under 18 years of age;

(2) All available sites, as designated by the City Council and assigned by the City Manager, are occupied by licensees;

(3) The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed or imposed upon the applicant;

(4) The applicant has failed to answer or falsely answered a question or request for information on the application;

(5) The applicant has failed to provide proof of a license or permit required by this Ordinance or by State law for the operation of the proposed business;

(6) The applicant, applicant's employees or agents, individually or cumulatively, have been convicted of two violations of this Ordinance, within the five years immediately preceding the application. A plea of guilty or no contest in any court of law, shall constitute a conviction for purposes of the Section. The fact a conviction is being appealed shall have no effect.

(7) The required license fee has not been paid;

(8) The applicant has failed to comply with or the proposed business with violate applicable law, ordinance, or regulation of the City;

(9) The applicant's business or method of doing business will interfere with traffic flow on public street or sidewalks;

If the City Manager finds any of the items listed above as true, the City Manager shall deny the application and send to the applicant by registered mail, return receipt requested, a written statement setting forth the reason or reasons for the denial and notifying the applicant of his or her right to Appeal.

(h) *Sales limited to products on application*: Vendors shall be limited to the sale of products specified on the application. Amendments to the original application may be made to the City Manager, however, no amendments will be considered prior to ninety (90) days of operation as a Vendor. An application fee of Fifty ($50.00) Dollars must accompany each request for a new item.

(i) *Licenses; nonassignable and nontransferable*: Licenses issued under the authority of this Article shall be nonassignable and nontransferable.

(j) *Display of license required*: All licenses shall display the license on a prominent place on the removable stand or mobile vending unit. The failure of a licensee to conspicuously display such license when engaged in licensed business shall be sufficient cause for the suspension or revocation of the license.

(k) *Prices posted*: The Vendor shall have posted on the stand or pushcart, the current process charged for each item offered for sale and no item shall be sold for more than the posted price.

(l) *Business hours, restrictions*: No vendor shall conduct business before the hour of 8:00 a.m. or after the hour of 10:00 p.m. or as otherwise restricted on a location basis by resolution of the City Council.

(m) *Traffic regulations*:

(1) Vendors using mobile vending carts on the street shall observe all traffic and parking regulations.

(2) Vendors using mobile vending carts on the sidewalk shall yield to pedestrians.

(n) *Obstructing public places*: No street vendor shall conduct business in a congested area. No Vendor using a mobile vending cart shall occupy a stationary location on a public street, sidewalk, parkway, park, parking lot, or any other public property which is to be used by pedestrians/persons operating motor vehicles. Such Vendor shall be presumed to have occupied a stationary location if he/she has conducted business in any such place for a period in excess of ten (10) minutes.

(o) *Prohibited locations for sale*: Sales to person standing in roadway, to occupants of vehicles at red lights and to occupants of vehicles in moving traffic lanes are prohibited.

(p) *Litter clean up required*: Vendors shall keep the sidewalks, street and other public places adjoining and adjacent to their locations of business clean and free from any refuse generated from the operation of their business. Vendors shall dispose of their own refuse and shall not use City trash receptacles.

(q) *Loud noise/speaking devices/lights*:

(1) It shall be unlawful for any licensee, or any person on the licensee's behalf, to shout, cry, blow a horn, ring a bell, or use any sound device, including loud speakers or sound amplifiers, upon any streets, alleys, parks or other public places of the City, or upon any private premises, for the purpose of attracting attention to any goods, wares or merchandise which licensee proposes to sell.

(2) It shall be unlawful for any licensee, or any person on the licensee's behalf, to use or employ any flashing lights on any vehicle or any other device for the purpose of attracting attention to any goods, wares or merchandise which the licensee proposes to sell.

(r) *Designating off limits locations*: The City Manager shall have the power to designate such streets, sidewalks, parts of streets, or sidewalks, districts of areas wherein it shall be unlawful for any Vendor to operate or conduct his/her business. Locations may be designated off limits at any time, including after a license has been granted. Such designation shall be made whereby reason of congested traffic conditions or the character of the neighborhood, or where the conduct of such business constitutes a public nuisance.

(s) *Revocation*: The City Manager is designated to revoke the license of any Vendor who has violated the rules and regulations set forth herein. Written notice of revocation shall be sent to the Vendor at the address on the application for the license. The Vendor, may within five (5) days from the date appearing on the notice of revocation, file a written request with the City Clerk's office for hearing to appeal the revocation. The appeal hearing shall be held before the City Manager.

(t) *Return of license*: A Vendor may, on or before July 1st, return a license and receive a pro-rated refund of the license fee. No refund of fee shall be available after July 1st.

(u) *Appeal*: If the City Manager denies the issuance of a license, suspends or revokes a license, the aggrieved party may appeal the decision to the City Council. An appeal shall not stay the action of the City Manager in suspending or revoking a license.

(Ord. No. 858, 5-18-98; Ord. No. 893, 3-11-02)

Sec. 14-44.7. Penalty.

(a) A person commits a misdemeanor if the person fails to comply with or violated any of the requirements of this Article. A culpable state of mind is required for the commission of an offense.

(b) An offense punishable under this article is punishable by a fine of not less than $100 nor more than $500 and up to 90 days imprisonment in the County jail or both. A second or subsequent conviction for violation of this Article is punishable by a fine of not less than $250.00 nor more than $500 and up to 90 day imprisonment in the County jail or both.

(c) In addition to prosecution, the City may employ such other equitable or other administrative procedures or enforcement remedies and shall be available to them to correct the conduct involved in the offense.

(Ord. No. 858, 5-18-98; Ord. No. 893, 3-11-02)

Sec. 14-44.8. Severability.

Should any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this Ordinance.

(Ord. No. 858, 5-18-98; Ord. No. 893, 3-11-02)

Sec. 14-45. Peddlers and Canvassers.

(a) Definitions. When used in this section, the following definitions shall apply:

(1) "Peddler" means any person traveling by foot, wagon, motor vehicle or other conveyance, from place to place, house to house, business to business, or street to street, selling or offering for sale any goods or services, whether for current or future delivery.

(2) "Canvasser" means any person traveling by foot, wagon, motor vehicle or other conveyance, from place to place, house to house, business to business, or street to street, on behalf of a religious, political or non-profit charitable organization selling goods or services for that organization for its fund-raising, seeking donations, distributing information or seeking signatures on petitions.

(b) Peddler registration required. All peddlers shall register with the City Clerk's Office prior to peddling in the City. Such registration shall require the name, address, telephone number, photo identification review, vehicle license number and date of birth of the peddler. The peddler shall describe the goods or services being sold and the general terms of the transactions. The peddler shall provide the name, address, telephone number, and information about the company or venture the peddler represents. The peddler shall further provide the name, address, telephone number, and business hours of a contact person at the company or venture the peddler represents. Copies of brochures or promotional materials shall be left with the City Clerk's Office. The City Clerk's Office may examine samples, catalogs or other materials. The City Clerk or Police Chief or his/her designee may verify the peddler's employment or authority to represent the company or venture and may conduct a criminal background check of the peddler and/or the company or venture represented.

(c) Prohibited peddling and canvassing. Peddling and canvassing is prohibited on any privately owned premises that is posted with a sign or other notice stating "no trespassing," "no visitors," "no soliciting," "no solicitors," "do not disturb," or similar notification making apparent the desires of the owner or occupant of the premises. Peddling is prohibited on any privately owned premises that is posted with a sign or other notice stating "no peddling."

(d) Remaining on premises. No peddler or canvasser shall remain on any premises or return to any premises after being asked or directed to leave by the owner, occupant or person in charge of such premises.

(e) Violations. A violation of this section shall be a municipal civil infraction punishable by a fine of $50 and otherwise as provided in section 1-16 of this Code of Ordinances. A subsequent violation shall be a municipal civil infraction punishable by a fine of $100. Each sale, attempted sale, and each act of entering upon a premises or remaining on any premises in violation of this section shall be a separate offense. Any violation of this section by any person occurring on any day after the issuance of a municipal civil infraction to that person on that same day shall be a misdemeanor punishable as provided in this Code of Ordinances.

(Code 1965, 31.06; Ord. No. 893, 3-11-02; Ord. No. 913, 5-19-03)

Sec. 14- 46 thru 14-54. Reserved

Sec. 14-55. Vessels for Hire.

(a) No person shall operate any vessel for hire on the waters of a lake or river within the city without proper documents as approved by the United States Coast Guard and/or other water-related agencies. Such vessels shall include, but are not limited to, motorboats, personal watercraft, paddleboats and sailboats.

(b) No person shall, in or upon any of the public streets, alleys, sidewalks or in or upon the wharves, docks, public grounds, or buildings in the city, buy, barter, transfer, sell

or otherwise dispose of the whole or any part of a ticket representing the right to transportation over or upon any vessel.

(c) The applicant shall furnish to the council a statement signed by at least three residents of the city that the applicant is a person of good moral character and in the opinion of such persons is a fit and competent person to operate a vessel for hire.

(d) If the council approves the application, the applicant shall deposit with the city clerk an insurance policy issued by a company authorized to do business in this state. The insurance policy shall protect the applicant from liability from damages resulting from the operation of the vessel in the amount of not less than $5,000.00 to any one person, $10,000.00 on any one accident and $1,000,000.00 for property damage. The City Council may review insurance requirements and change insurance rates as deemed necessary by resolution.

(e) All licensees shall have the same insurance requirements.

(f) The license fee for operation of a vessel for hire is a one-time fee of $30.00.

(Code 1965, Sec. 31.18; Ord. No. 893, 3-11-02)

Sec. 14-56. Bicycles.

Any person over the age of nine years who owns or keeps within the city any bicycle for use upon the streets of the city, may voluntarily make application to City Hall to license and tag a bicycle at no cost to the applicant. The application shall state age, residence, serial number, and make/model of bicycle.

(Code 1965, Sec 31.19; Ord. No. 893, 3-11-02)

Sec. 14-57 thru 14-58. Reserved

Sec. 14-59. Solicitations, nonprofit organizations.

The city manager may grant to nonprofit organizations, on their written request, permission to solicit at the four corners only, where Phoenix Street and Center Street meet. Such nonprofit organizations shall not utilize the service of any person under 18 years of age without the express consent of the city manager; nor shall such nonprofit organization have more than two persons on each of the four corners at any one time. The nonprofit organization may appeal in writing to the city council the decision of the city manager should they deem it necessary.

(Code 1965, Sec. 31.22; Ord. No. 747, Sec. 2, 11-28-91; Ord. No. 893, 3-11-02)

Sec. 14-60—14-62. Reserved.

Sec. 14-63. Horse-Drawn Carriages.

(a) No person shall operate a horse-drawn carriage for hire without a license therefore. The license fee is $30.00 per calendar year. All licenses for Horse-Drawn Carriages expire on December 31 or the year in which they are granted.

(b) The applicant shall furnish proof of insurance naming the City of South Haven as an additional insured, in an amount acceptable to the City Manager of the City of South Haven.

(c) In the application, the applicant shall identify the date(s), time(s) and locations(s) where the carriage will be halted to pick up passengers. These locations are subject to City Council approval.

(d) The applicant shall remove and dispose of any animal waste.

(e) The applicant shall not stop in a roadway so as to block traffic or cause a traffic hazard.

(f) The City reserves the right to approve or disapprove the appearance of the carriage.

(g) City may require a specified route to be followed, including pick-up and parking locations.

(Ord. No. 888, Sec. 1, 11-20-00; Ord. No. 893, 3-11-02)

Sec. 14-64 – 14-70. Reserved.

ARTICLE III. LIQUOR CONTROL.

Sec. 14-71. Short Title.

This article shall be known as the “Liquor Control Ordinance”.

(Ord. No. 840, Sec. 1, 2-3-97)

Sec. 14-72. Applications; contents; fees.

(a) Whenever a person, partnership, corporation, association, or other legal entity which is in the process of obtaining a license from the Michigan Liquor Control Commission to sell alcoholic beverages requests approval from the City of South Haven for the issuance of the license from the Michigan Liquor Control Commission, the person, partnership, corporation, association or other legal entity shall file a formal application for approval with the City Council for the City of South Haven.

(b) The application to be filed with the City Clerk for the City of South Haven shall contain the following information:

(1) The name, age, and address of the applicant in the case of an individual; or, in the case of a partnership, the persons entitled to share in the profits thereof; in the case of a corporation, association, or other legal entity, the name and addresses of the officers, directors, shareholders, or other principal individuals.

(2) The address and property description of the premises or place of business which is to be operated under such license

(3) A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.

(4) A statement that applicant has never been convicted of a felony and is not disqualified to receive a license under this Ordinance or the laws of the State of Michigan.

(5) A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any rules or regulations of the Michigan Liquor Control Commission, or any Ordinances of the City of South Haven in the conduct of its business.

(6) Any application for approval of a new license or for approval of the transfer of any currently valid or renewal license to a new location shall be accompanied by an eight and one-half (8-1/2) inch by eleven (11) inch building and grounds layout diagram showing the entire structure, premises, and grounds, and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.

(c) Along with the application, the applicant shall pay a processing fee which shall be established by the City Council from time to time.

(Ord. No. 840, Sec. 2, 2-3-97)

Sec. 14-73. Public hearing; approval.

The City Council shall set a date for a Public Hearing at which time comments can be received from the general public in regard to the application and at which time the applicant or its agents can be questioned by the City Council. After passing a Resolution setting a Public Hearing, the City Clerk shall cause notice to be published in a local newspaper in general circulation in the City of South Haven at least five (5) business days prior to the Hearing. Approval of the application shall be by majority of the City Council.

(Ord. No. 840, Sec. 3, 2-3-97)

Sec. 14-74. Refusal to approve.

If the City Council refuses to approve the application the applicant shall be advised in writing and shall be advised as to the basis for the refusal.

(Ord. No. 840, Sec. 4, 2-3-97)

Sec. 14-75. Length of approval.

Approval of the applicant as a licensee of the Michigan Liquor Control Commission shall be continuing until a transfer to a subsequent applicant or until action is taken by the City Council as hereinafter set forth to object to the annual renewal required by the Michigan Liquor Control Commission or until a request by the City Council to the Michigan Liquor Control Commission that the license be revoked.

(Ord. No. 840, Sec. 4, 2-3-97)

Sec. 14-76. Standards and guidelines for objection to renewal of or request for revocation to Michigan Liquor Control Commission.

The City Council may object to eh annual renewal of the license by the Michigan Liquor Control Commission or may request that the license be revoked upon a determination based on a preponderance of the evidence presented at the Public Hearing described hereafter, that any of the following exist:

(a) Violation of any law of the State of Michigan or United States, or an rule or regulation of the Michigan Liquor Control Commission, or a violation of any Ordinance of the City of South Haven.

(b) Maintaining of a nuisance upon the premises, including but not limited to any of the following:

(1) A pattern of patron conduct in the neighborhood of the licensed establishment which is in violation of the law and/or disturbs the peace, order, and tranquility of the neighborhood.

(2) Entertainment which disturbs the peace, order, and tranquility of the neighborhood.

(c) Making a false or fraudulent statement or answer in the application described in section 14-72 above.

(d) Non-payment of real property taxes and/or personal property taxes as some become due.

(Ord. No. 840, Sec. 4, 2-3-97)

Sec. 14-77. Public hearing for non renewal or revocation.

The Public Hearing referenced in section 14-76 shall be conducted by the City Council as a whole at a regular or special meeting. The City Clerk shall serve notice of public hearing upon the license holder, by both first class mail, mailed not less than ten (10) days prior to the Public Hearing and by certified mail, return receipt requested. Notice of such public hearing shall contain the following information:

(1) Notice of proposed action;

(2) Date, time, and location of the Public Hearing;

(3) A detailed statement as to the reasons for the proposed action citing specific standards and guidelines the licensee has not complied with or has otherwise violated;

(4) A statement as to the Licensee's rights at the hearing, including the opportunity to defend against the allegations by confronting any adverse witnesses and by presenting witnesses, evidence, and arguments;

(5) A statement that the licensee has the right to be represented by an attorney at said Public Hearing.

(Ord. No. 840, Sec. 4, 2-3-97)

Sec. 14-78. Procedure at public hearing; findings and determination; notification.

(a) At the Public Hearing the Mayor shall act as the presiding official. The City Attorney shall present witnesses and evidence in support of the proposed action; the witnesses called by or on behalf of the City may be cross-examined by the licensee or the licensee's attorney. The licensee shall thereafter present any witnesses, evidence or argument against the proposed action; the City Attorney may thereafter cross-examine the licensee's witnesses. Any individual Council member may question witnesses called by either the licensee or the City. There shall be an opportunity for comments from the general public.

(b) Following the Public Hearing the City Council shall make specific findings of fact and determinations in regard to the proposed action.

(c) If the City Council passes a Resolution to request that the license not be renewed by the Michigan Liquor Control Commission or to have the license revoked, a certified copy of the Resolution and a certified copy of the separate statement of findings and determinations shall be delivered to the licensee and to the Michigan Liquor Control Commission.

(Ord. No. 840, Sec. 4, 2-3-97)

Chapters 15—17

RESERVED

Chapter 18

CEMETERIES*

***Cross reference(s)--**Administration, ch. 2; parks and cemetery commission, Sec. 58-36 et seq.

State law reference(s)--Right of city to own, maintain cemetery, Mich. Const. 1963, art. VII, Sec. 23, MCL 128.1 et seq., MSA 5.3165 et seq.

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ARTICLE I. IN GENERAL

Sec. 18-1. Applicability of chapter.

All persons and lots within the city cemeteries shall be subject to the provisions of this chapter, to all other provisions of this Code, and to all applicable rules and regulations.

(Ord. No. 772, Sec. 12.01, 12-21-92)

Sec. 18-2. Enforcement by agent.

Any action required of or allowed by the city manager, the commission and/or the cemetery superintendent may also be performed by the duly authorized agent of any such individual.

(Ord. No. 772, Sec. 12.31, 12-21-92)

Sec. 18-3. Violation penalties.

Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Ord. No. 772, Sec. 12.29, 12-21-92; Ord. No. 816, Sec. 10, 2-6-95)

Sec. 18-4. Approval of cemeteries.

All cemeteries owned or hereafter acquired or owned by the city are hereby declared to be public burial grounds and no person shall establish or locate any other cemetery within the corporate limits of the city, unless the desirability for the establishment of such cemetery has been affirmatively determined, and the location of such proposed cemetery is first approved, by the city council.

(Code 1965, Sec. 12.01; Ord. No. 772, Sec. 12.01, 12-21-92)

Sec. 18-5. General provisions.

(a) The term "commission," as used in this chapter, shall mean the parks and cemetery commission.

(b) The cemetery office shall generally remain open Monday through Friday from 7:00 a.m. to 3:30 p.m. each day. The cemetery office shall be closed on the holidays enumerated in section 18-85. All such times are subject to change according to the discretion of the commission.

(c) All fees or charges for service shall be payable to the city at the finance department office, or to the cemetery sexton. No other office or person is authorized to accept any monies in payment of any fee or charge. Any person tendering payment to any other person does so at his own risk.

(d) No city employee may solicit or accept any form of payment or gratuity for work or services rendered. City employees at a city cemetery are not permitted to do any work for lot owners or interested parties except upon the direct order of the cemetery sexton.

(Ord. No. 772, Sec. 12.02, 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-6. Authority of commission.

The commission is authorized to promulgate such rules and regulations which it deems appropriate concerning mausoleums, markers, decoration of lots and such other matters which the commission deems pertinent to the care and good order of a city cemetery. The commission may amend, revise, repeal, add to, delete from or repromulgate its own rules and regulations, as well as the temporary rules and regulations of the cemetery superintendent, as it deems appropriate.

(Code 1965, Sec. 12.04; Ord. No. 772, Sec. 12.06, 12-21-92)

Sec. 18-7. Duties of cemetery superintendent; emergency discretion.

The cemetery sexton or his duly authorized agent shall see that the provisions of this chapter, as well as all applicable rules and regulations, are complied with, that order is maintained, and that the best interests of a city cemetery are preserved and protected. To that end, the cemetery sexton is authorized to make such exceptions to the rules and regulations which he deems necessary to meet emergencies not covered by the provisions of this chapter or the rules and regulations promulgated pursuant to this chapter. The cemetery sexton shall report all such exceptions to the city manager.

(Ord. No. 772, Sec. 12.05, 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-8. Liability of city and cemetery.

(a) The city and/or a city cemetery shall not be held responsible for damages by the elements, acts of God, common enemies, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or the order of any military or civil authority, whether the damages be direct or collateral.

(b) All noncity employees working in a city cemetery shall be fully responsible for any damage done by them or their agents. Upon completing their work, such noncity employees must immediately remove all tools, equipment and debris from a city cemetery, and must repair any damage done to the cemetery grounds.

(Ord. No. 772, Sec. 12.03, 12-21-92)

Sec. 18-9. Exceptions to chapter.

Special cases may arise in which the literal enforcement of a provision of this chapter or a rule or regulation promulgated pursuant to this chapter may impose an undue and unnecessary hardship. Notwithstanding any such provision to the contrary, the city manager and/or the commission, after due consideration, may make such exceptions, suspensions, or modifications of any applicable provision as they deems appropriate. Any such exception, suspension or modification shall not be construed as affecting the general application or the

intent of the provision of this chapter and/or any rules and regulations promulgated pursuant to this chapter.

(Ord. No. 772, Sec. 12.07, 12-21-92)

Secs. 18-10--18-30. Reserved.

ARTICLE II. CONDUCT OF VISITORS

Sec. 18-31. Use of designated roads and walkways; exception.

All persons within the cemetery shall use only the designated roads, drives, alleys, walks, aisleways; provided, however, a person may carefully walk upon or across lots, graves or lawns when necessary to gain access to a lot.

(Ord. No. 772, Sec. 12.08(a), 12-21-92)

Sec. 18-32. Destruction of plants or animals; defacement of property.

No person shall pick any flower (wild or cultivated); break or damage any tree, shrub or plant; or write upon, deface or destroy any memorial, marker, fence or other structure. No person shall destroy or otherwise disturb any bird or animal within the cemetery if not authorized by the city manager, the cemetery superintendent, or the commission.

(Ord. No. 772, Sec. 12.08(b), 12-21-92)

Sec. 18-33. Changing of appearance or layout.

Within the cemetery, no person shall alter any contour of the ground, or construct, build or place any type of material, component or other feature which would change the general appearance or layout of the cemetery without the express consent of the commission. Those components or features that are currently in place shall be removed no later than January 1, 1998.

(Ord. No. 772, Sec. 12.08(d), 12-21-92)

Sec. 18-34. Enumeration of forbidden acts.

Within the cemetery, no person shall loiter, litter, bring in or consume any alcoholic beverage or controlled substance, peddle or solicit the sale of any commodity unconnected to cemetery usage, place signs or notices, allow animals to run at large or otherwise beyond his control, or engage in any play or recreational activity.

(Ord. No. 772, Sec. 12.08(c), 12-21-92; Ord. No. 975, Sec. 1, 11-16-09)

Secs. 18-35--18-55. Reserved.

ARTICLE III. TRAFFIC REGULATIONS

Sec. 18-56. Speed limit.

No person shall drive a vehicle in excess of 15 miles per hour in the cemetery.

(Ord. No. 772, Sec. 12.09(a), 12-21-92)

Sec. 18-57. Vehicles--Driving on roads.

No person shall drive a vehicle except on the established roads in the cemetery.

(Ord. No. 772, Sec. 12.09(b), 12-21-92)

Sec. 18-58. Same--Operation for recreation.

No person shall operate a vehicle in the cemetery for recreational purposes.

(Ord. No. 772, Sec. 12.09(d), 12-21-92)

Sec. 18-59. Parking--Removal.

No person shall park a vehicle or leave a vehicle in such a location as to prevent any other vehicle from passing. Any vehicle parked in such a manner may be ordered removed by the cemetery superintendent, and the owner and/or operator shall be responsible for all costs.

(Ord. No. 772, Sec. 12.09(c), 12-21-92)

Sec. 18-60. Same--In front of open grave.

No person shall park a vehicle in front of an open grave, unless the person is attending the funeral pertaining to such open grave, and the parking area is not otherwise reserved.

(Ord. No. 772, Sec. 12.09(e), 12-21-92)

Sec. 18-61. Conflicting regulations.

The provisions of the traffic and motor vehicles chapter of this Code are hereby adopted as the applicable regulations for vehicular traffic within the confines of the cemetery. Whenever a conflict of law should arise between the provisions of this chapter and the traffic and motor vehicles chapter of this Code, the provisions of this chapter shall control.

(Ord. No. 772, Sec. 12.10, 12-21-92)

Secs. 18-62--18-80. Reserved.

ARTICLE IV. FUNERALS

Sec. 18-81. Funeral processions.

No funeral procession shall enter the cemetery unless authorized by the cemetery superintendent. Once in the cemetery, a duly authorized funeral procession shall proceed according to and be under the direction of the cemetery superintendent until completion. Funeral directors must present the necessary burial or transit permit, as required by state law.

(Ord. No. 772, Sec. 12.11(a), 12-21-92)

Sec. 18-82. Saturday service and interment.

If possible, interment for a Saturday service shall be made on the same day as the service. Notice of interment must be given to the cemetery sexton at least 24 hours in advance of the proposed interment in accordance with Sec. 18-86.

(Ord. No. 772, Sec. 12.11(b), 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-83. Charges and fees for services.

Charges and fees for services shall be as recommended by the commission and approved by the council.

(Code 1965, Sec. 12.03; Ord. No. 772, Sec. 12.11, 12-21-92)

Sec. 18-84. Cessation of construction work during funeral; enforcement.

All cemetery work in the general area of a funeral shall cease while the funeral is being conducted. All trucks and workers shall withdraw a reasonable distance from the location of the funeral. The cemetery superintendent shall have the authority and discretion to enforce this section.

(Ord. No. 772, Sec. 12.28, 12-21-92)

Sec. 18-85. Conduct of business prohibited on Sundays and holidays; exceptions for interments, additional charge.

Interments, disinterments, removals or cremation interment services are prohibited on Sundays or any of the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, day after Thanksgiving, one-half day before Christmas, Christmas Day, and any additional holidays specified in a collective bargaining agreement covering city employees working in the cemetery. Should any such holiday fall or be legally observed on a Saturday or Monday, funerals shall be conducted on the last business day preceding or first business day following such legal observance; provided, however, if an interment must be made on a Sunday or a holiday because of health department requirements, religious tenets, or if for any other reason, an additional fee recommended by the commission and approved by the city council shall be added to the regular interment charge.

(Ord. No. 772, Sec. 12.12, 12-21-92)

Sec. 18-86. Interments--Time and fees.

Notice of an interment must be given to the cemetery sexton at least 24 hours in advance of the proposed interment. One week’s notice is required prior to any proposed disinterment or removal. The cemetery sexton may delay an interment until a more expedient time if the funeral party arrives at the cemetery entrance after 3:30 p.m., or if two or more funeral parties arrive at the same or approximately the same time. For a Saturday interment, an additional fee recommended by the commission and approved by the city council may be added to the regular interment charge.

(Ord. No. 772, Sec. 12.13, 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-87. Same--Verbal orders.

Neither the commission, the cemetery superintendent, nor any city employees working in the cemetery shall be held responsible for following or refusing to follow any order given by telephone, or for any mistake caused by the lack of precise and proper instructions as to the particular space, size and location in a lot where interment is desired. Orders given by the funeral director for the opening of a grave will be construed as orders from the lot owners or heirs.

(Ord. No. 772, Sec. 12.14, 12-21-92)

Sec. 18-88. Same--Correction of errors.

(a) The cemetery superintendent and city employees working in the cemetery shall have the right to correct any errors pursuant to interments, disinterments or the description, transfer or conveyance of any interment property.

(b) When an interment is to be made in a lot, the location of such interment shall be designated by the lot owners or heirs. The cemetery superintendent may reject any proposed location of interment if he deems that such location would not be consistent with the appearance of surrounding lots. Should the lot owners or heirs not make an accepted designation, the cemetery superintendent shall have the right to designate the location of the interment. No damage liability shall attach because of any error made by the cemetery superintendent in so designating the location of interment.

(c) All interments, disinterments, removals and cremated interments shall be performed by city employees.

(Ord. No. 772, Sec. 12.15, 12-21-92)

Sec. 18-89. Same--One per grave; exceptions.

Unless specifically provided to the contrary, only one interment is permitted per grave in the cemetery and the interment of more than one body per grave is prohibited. Exceptions to this rule are: a mother and her infant if interred at the same time, and two sibling infants if interred at the same time. Further, more than one person’s cremated remains may be interred in a single grave. However, only one memorial may be used to identify the persons interred in one grave, and the memorial shall comply with the dimension regulations for a single grave marker.

(Ord. No. 772, Sec. 12.18, 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-90. Disinterments.

(a) Disinterment or disinterment and removal of a body or cremated remains by any person to allow the lot to be sold, or removal of such body or remains contrary to the expressed wish of the interred or cremated lot owner, is prohibited.

(b) Subject to subsection (a) of this section, a body or cremated remains may be removed from its original lot to a larger or better lot in the cemetery, purchased or otherwise legally obtained for that purpose.

(c) Due care shall be exercised in making a disinterment and removal; however, no damage liability shall be attached to the city for any damages whatsoever including, but not limited to, the casket, burial case or urn from such disinterment and removal.

(d) The charges for any disinterment or removal shall be paid in advance.

(Ord. No. 772, Sec.Sec. 12.17(b)--(d), 12.19(d), 12-21-92)

State law reference(s)--Disinterment of bodies, MCL 333.2853, MSA 14.15(2853).

Sec. 18-91. Burial vaults.

In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, every burial shall be made in a burial vault made of metal or concrete. Reinforced plastic or combination units may be used for infant interments only.

(Ord. No. 772, Sec. 12.16, 12-21-92)

Sec. 18-92. Unlawful use of lot.

A lot owner shall not allow any interment to be made on his lot for remuneration of any kind.

(Ord. No. 772, Sec. 12.17(a), 12-21-92)

Sec. 18-93. Grave accounts.

(a) The full purchase price of the designated lot and grave opening shall be paid before any proposed interment occurs.

(b) Arrangements for the payment of any further indebtedness due the city per incumbent in the cemetery shall be made before the proposed interment occurs.

(c) A nonresidency charge shall apply to all persons outside of the city limits who are interred in, reserve grave space in and/or purchase lots in the cemetery. The nonresidency charge shall not apply to a person who had been a bona fide city resident living outside of the city on the date of death because of residence in a rest home, convalescent home or hospital, or a person on active duty with the United States Armed Forces who maintains a current city address. The burden of establishing residency shall be the responsibility of the family or administrator of the deceased.

(d) All payments under this section shall be made to the city at the finance department office.

(Ord. No. 772, Sec. 12.19, 12-21-92)

Secs. 18-94--18-115. Reserved.

ARTICLE V. LOTS

Sec. 18-116. Possession by permission.

No person shall acquire absolute unconditional title in fee to any cemetery lot. The purchase and entry of a lot holder and his subsequent possession are by permission, a license and a right of burial, and shall not constitute an absolute ownership in fee regardless of the form of conveyance.

(Ord. No. 772, Sec. 12.20(a), 12-21-92)

Sec. 18-117. Selection; payment.

Every person desiring to purchase a cemetery lot shall ask the cemetery superintendent for assistance in making a selection. After the selection has been made, the purchaser shall make his payment to the city at the finance department office.

(Ord. No. 772, Sec. 12.20(b), 12-21-92)

Sec. 18-118. Payment on contract or time purchases.

On contract or time purchases, the balance shall be paid with interest, as determined by city council resolution from time to time.

(Ord. No. 772, Sec. 12.20(c), 12-21-92)

Sec. 18-119. Cemetery fund.

All money raised for cemetery purposes and all money received from the sale of lots or otherwise shall be deposited in the general fund of the city, and all such funds both as to principal and interest may be used by the city for the care and maintenance of the cemeteries. The principal balance of the perpetual care fund as of January 1, 1993, shall be maintained, and all interest realized from the investment of the existing perpetual care fund may also be used for the maintenance of the cemeteries.

(Code 1965, Sec. 12.05; Ord. No. 772, Sec. 12.24, 12-21-92)

Sec. 18-120. Issuance of deed and certificate of perpetual care.

When a lot is paid for in full, a Right of Burial shall be issued to the purchaser. When a lot is purchased by more than one person, each person’s interest in the lot shall be specifically defined. When property is transferred to a nonresident, the nonresident fee will be charged, if applicable.

(Ord. No. 772, Sec. 12.20(d), 12-21-92; Ord. No. 989, 01-17-2011)

Sec. 18-121. Perpetual care.

(a) All lots shall be sold with perpetual care benefits. The money received for perpetual care shall be held in trust and invested as provided by law. Perpetual care includes, without limitation and according to the city's discretion, the cutting, trimming, sprinkling and fertilizing of the grass, the raking and cleaning of the grounds, the replacing of turf under certain conditions, and the pruning of shrubs and trees, all at reasonable intervals as determined by the city.

(b) The perpetual care assumed by the city shall in no case mean the maintenance, repair or replacement of any memorial, urn, or mausoleum placed or erected upon lots, nor the performance of any special or unusual work which the city determines to be beyond the scope of perpetual care.

(c) Any lot space which was purchased in the past without perpetual care may receive perpetual care if the owners or heirs pay the specified price. Information regarding perpetual care may be obtained from the cemetery superintendent's office.

(d) The city reserves the right to perform all the work for the care and upkeep of lots in the cemetery; provided, however, this reservation shall not be interpreted to add to the city's responsibilities under this chapter.

(Ord. No. 772, Sec. 12.23, 12-21-92)

State law reference(s)--Perpetual care of cemetery by municipality, MCL 128.1, MSA 5.3165.

Sec. 18-122. Descriptions.

The description of each lot shall be in accordance with the cemetery records kept in the office of the cemetery superintendent.

(Ord. No. 772, Sec. 12.20(e), 12-21-92)

Sec. 18-123. Use.

No lot shall be purchased or sold or rights transferred for speculative purposes. No lot shall be used for any other purpose than for burial of human dead.

(Ord. No. 772, Sec. 12.21(b), 12-21-92)

Sec. 18-124. Transfer.

Any transfer of a lot or part thereof to another party shall be recorded in the office of the city clerk, which shall notify the cemetery superintendent of such transfer. No person shall be recognized as the owner or part owner unless so recorded in the office of the city clerk. A lot owner shall notify the cemetery superintendent in writing of any change in his post office address.

(Ord. No. 772, Sec. 12.21(a), 12-21-92)

Sec. 18-125. Use of roads and drives.

No easement or right of interment shall be granted to any lot owner in any road, drive, alley, walk or aisle way within the cemetery. However, such roads, drives, alley, walk or aisle ways may be used when necessary as means of access to locations in the cemetery, as long as devoted to that purpose.

(Ord. No. 772, Sec. 12.22, 12-21-92)

Sec. 18-126. Interment rights.

A person may be interred in a lot even absent an interest therein. Upon a timely written objection duly filed with the cemetery superintendent by any person having an interest in the lot, no interment shall be allowed except upon the written consent of all persons having an interest in the lot. An heir at law of any lot owner of record may be buried in such lot as provided in this section or by state law.

(Ord. No. 772, Sec. 12.26, 12-21-92)

Sec. 18-127. Descent of interment rights.

Ownership of interment rights shall descend by testamentary disposition of the owner, or as personalty under the law of descent and distribution of the state.

(Ord. No. 772, Sec. 12.25, 12-21-92)

Sec. 18-128. Tax exempt status.

To the extent allowed by law, lots shall be exempt from tax and from seizure by execution. No mortgage or other encumbrance shall be given on any lot.

(Ord. No. 772, Sec. 12.27, 12-21-92)

Chapters 19—21

RESERVED

Chapter 22

COMMUNITY DEVELOPMENT*

***Cross reference(s)--**Administration, ch. 2; buildings and building regulations, ch. 10; parks and recreation, ch. 58; planning, ch. 62; streets, sidewalks and other public places, ch. 74.

State law reference(s)--Housing and slum clearance projects, MCL 125.651 et seq., MSA 5.3011 et seq.; housing corporation law, MCL 125.601 et seq., MSA 5.3057(1) et seq.; urban redevelopment corporations, MCL 125.901 et seq., MSA 5.3058(1) et seq.; rehabilitation of blighted areas, MCL 125.71 et seq., MSA 5.3501 et seq.

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Sec. 22-69. Voted millage not captured as tax increment revenue.
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ARTICLE I. IN GENERAL

Secs. 22-1--22-25. Reserved.

ARTICLE II. DOWNTOWN DEVELOPMENT AUTHORITY

DIVISION 1. GENERALLY

Sec. 22-26. Articles of incorporation.

These Articles of Incorporation are signed and acknowledged by the City of South Haven for the purpose of forming a corporation for the purposes of operating a downtown development authority for the City of South Haven pursuant to the provisions of Act No. 197 of the Public Acts of Michigan of 1975, as amended.

Article I

Name. The name of the corporation is the Downtown Development Authority of the City of South Haven.

Article II

Purpose. The corporation is organized with reference to Act No. 197 of the Public Acts of Michigan of 1975, as amended. Its purposes will be to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; and to authorize the use of tax increment financing and to accomplish the foregoing by the following means:

(1) Prepare an analysis of economic changes taking place in the downtown district.

(2) Study and analyze the impact of metropolitan growth upon the downtown district.

(3) Plan and propose the construction, the renovation, repair, remodeling; rehabilitation, restoration, preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the economic growth of the downtown district.

(4) Develop long range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the downtown district and to promote the economic growth of the downtown district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(5) Implement any plan of development in the downtown district necessary to achieve the purposes of this article, in accordance with the powers of the authority as granted by this article.

(6) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(7) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority deems proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests therein, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect thereto.

(8) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building including multiple-family dwellings, and any necessary or desirable appurtenances thereto, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination thereof.

(9) Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control of any part thereof, or facility therein, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(10) Lease any building or property under its control, or any part thereof.

(11) Accept grants and donations of property, labor, or other things of value from a public or private source.

(12) Acquire and construct public facilities.

(13) Provide financial assistance, advisory services and reimbursement of certain expenses to persons displaced from real property or deprived of certain rights in real property pursuant to Act No. 227 of the Public Acts of Michigan of 1972, as amended.

(14) To receive property taken by the City of South Haven under its power of eminent domain for use in an approved development on terms and conditions that it deems appropriate and as necessary for public purposes and for the benefit of the public.

(15) The activities of the authority shall be financed from one or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Proceeds of a tax imposed and funds received from tax anticipation notes.

(c) Moneys borrowed and to be repaid as authorized.

(d) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(e) Proceeds of a tax increment financing plan, established pursuant to Act No. 197 of the Public Acts of Michigan of 1975, as amended.

(16) The authority with the approval of the municipal governing body may levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district. The tax shall not be more than two mills. The tax shall be collected by the municipality creating the authority levying the tax. The municipality shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the treasurer of the authority and credited to the general fund of the authority for purposes of financing only the operations of the authority. The municipality may at the request of the authority, borrow money and issue its notes therefore pursuant to Act No. 202 of the Public Acts of Michigan of 1943, as amended, in anticipation of collection of the ad valorem tax authorized in this section.

(17) The authority may borrow money and issue its negotiable revenue bonds therefore pursuant to Act No. 94 of the Public Acts of Michigan of 1933, as amended. Revenue bonds issued by the authority shall not, except as hereinafter provided, be deemed a debt of the municipality or the state. The municipality by majority vote of the members of its governing body may pledge its full faith and credit to support the authority's revenue bonds.

(18) When the authority determines that it is necessary for the achievement of its purposes, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall be pursuant to Act No. 197 of the Public Acts of Michigan of 1975, as amended.

(19) The municipality may by resolution of its governing body authorize, issue, and sell general obligation bonds subject to the limitations herein set forth to finance the development program of the tax increment financing plan and shall pledge its full faith and credit for the repayment of the bonds. The bonds shall mature in not more than 30 years and shall be subject to Act No. 202 of the Public Acts of Michigan of 1943, as amended, and Act No. 197 of the Public Acts of Michigan of 1975, as amended.

(20) Carry on any activity for the purpose above stated, either directly or as agent for or with public authorities, or in whole or in part through or by means of public authorities, individuals, corporations or other organizations.

(21) In general, and subject to such limitations and conditions as are or may be prescribed by law, to exercise such other powers which now are or hereafter may be conferred by law upon a corporation organized pursuant to Act No. 197 of the Public Acts of Michigan of 1975, as amended.

Article III

Section 1. Directors and management. The business and affairs of the corporation shall be under the supervision and control of a board of directors except as otherwise provided by statute, by the articles of incorporation or by the by-laws.

Section 2. Board of directors.

(a) The board of directors of the corporation shall consist of the chief executive officer of the municipality and eight members appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. At least five of the members shall be persons having an interest in property located in the downtown district. At least one of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it. Of the members first appointed, two shall be appointed for one year, two for two years, two for three years, and two for four years. A member shall hold office until the member's successor is appointed. Thereafter, a member shall serve for a term of four years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairman of the board shall be elected by the board.

(b) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(c) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public.

(d) Pursuant to notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body. Removal of a member is subject to review by the circuit court.

(e) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(f) A member of a downtown development authority board may not simultaneously serve as a member of the county board of commissioners of the county wherein the district is located, a member of the governing body of the municipality wherein the district is located, or a member of a school board of a school district which extends into the development area.

Section 3. Conflict of interest. A director who has a direct interest in any manner before the corporation shall disclose his interest prior to the corporation taking any action with respect to the matter, which disclosure shall become a part of the record of the corporations official proceedings, and the interested director shall further refrain from participation in the corporation's proceedings relating to the matter.

Article IV

Section 1. Officers. The officers of the corporation shall consist of a director, secretary and treasurer.

Section 2. Compensation; duties.

(a) The board may employ and fix the compensation of a director, subject to approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of his office, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the penal sum determined in the ordinance establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be deemed an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise, and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this chapter. The director shall attend the meetings of the board, and shall render to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of his office, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(b) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform such other duties as may be delegated to him by the board and shall furnish bond in an amount as prescribed by the board.

(c) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings, and shall perform such other duties delegated by the board.

(d) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(e) The board may employ other personnel deemed necessary by the board.

Article V

Location of the first registered office is:

City Hall
539 Phoenix Street
South Haven, Michigan 49090

Article VI

The name of the first resident agent is: the City Manager who is employed by the City of South Haven.

Article VII

The amount of assets which said corporation possesses is:

(1) Real property (none)

(2) Personal property (none)

The corporation will be financed from donations, gifts, grants and devises, either solicited or unsolicited, obtained from public authorities, individuals, corporations and other organizations, by earnings from its activities, borrowings and issuance of its bonds.

Article VIII

The corporation shall become effective 30 days after adoption of an ordinance by the South Haven City Council authorizing this incorporation, its publication and its final approval as provided by law. The term of the corporation's existence is perpetual.

Article IX

No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, officer or director of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes) and no member, trustee, officer or director of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets or dissolution of the corporation. No part of the earnings shall be used for, nor shall the corporation engage in the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

Upon dissolution of the corporation or the winding up of its affairs, all property and assets of the corporation shall be distributed exclusively to the City of South Haven, Michigan, or its successor.

Article X

These articles of incorporation shall be published in the *Saint Joseph Herald Palladium* in accordance with the provisions of Act No. 197 of the Public Acts of Michigan of 1975, as amended.

Article XI

By-laws of the corporation currently in effect, if any, are approved and continued. The board may repeal by-laws or adopt new by-laws, subject to the approval of the South Haven City Council by ordinance. The by-laws may contain any provision for the regulation and management of the affairs of the corporation not inconsistent with law of these Articles of Incorporation.

Article XII

The boundaries of the downtown district within which the authority shall exercise its powers are described as follows:

Legal Description

Beginning at the Northwest corner of Lot 1, Block 20, Original Village (now City) of South Haven, according to the recorded plat thereof; thence South 132 feet to the North line of Eagle Street; thence West on said line 50 feet to the Southwest corner of Lot 2, Block 20 of said plat; thence South 332 feet to the South line of Huron Street and Northwest Corner of Lot 2 Block 18 of said plat; thence East on said line 566 feet to the Northeast corner of Block 3 or said plat and the West line of Center Street; thence South on said West line 266 feet to the South line of Michigan Avenue; thence East along the South line of Michigan Avenue and extension thereof, 896 feet more or less on the South line of Michigan Avenue to the East line of Broadway and the West line of Block 8, Dyckman, Hale & Company's Addition to the Village (now City) of South Haven; thence North along the West line of Broadway 136 feet to the South line of Lot 3, Block 8, in said plat; thence East on said lot line 132 feet; thence North 132 feet to the South line of Huron Street; thence East on said South line 198 feet to the east line of Pearl Street; thence North along the East line of Pearl Street, 132 feet; thence West 198 feet to the Northeast corner of Lot 10, Block 2, Dyckman, Hale & Company's Addition; thence North along the centerline of Block 2, a distance of 222 feet; thence East 15 feet; thence North 108 feet to the South line of Phoenix Street; thence East on said South line 183 feet to the Northwest corner of lot 1, Block 1, Dyckman, Hale & Company's Addition; thence North on the East line of Pearl Street 379.5 feet; thence West 198 feet to the West line of Lot 2, Block 8, Hale, Conger & Company's Addition to the Village (now City) of South Haven; thence North 297 feet to the Northwest corner of Lot 12, Block 7, said plat; thence East 239 feet to the Southwest corner of Lot 7 of said Block; thence North 349.5 feet to the Southwest corner of Highview Condominiums; thence East 212.52 feet to the East line of Prospect Street; thence North along said East line 86 feet to the South line of Conger Street; thence East on said South line 1254 feet to the East line of Bailey Avenue; thence North on said line 1578 feet to the South line of East Wells Street; thence East along the South line Wells Street to the North and South Eighth line in the Fractional Quarter of Section 2, Town 1 South, Range 17 West and the East City Limits of the City of South Haven; thence Northerly on the North and South Eighth line in the Southwest Quarter and Northwest Fractional Quarter of Section 2, Town 1 South, Range 17 West, 1259 feet; thence West 20 feet; thence North parallel with said Eighth line, 243.35 feet; thence South 76° 55' West, 185.47 feet; Thence South 03° 55' West, 146 feet; thence North 88° 05' West to the Black River; thence Northeasterly along said River to the North and South Eighth line in the Northwest Fractional Quarter; thence North to the North line of Section 2, also being the North City Limits; thence Westerly along the North Section Line to a point 145.53 feet East of the East line of Van Buren Heights Association Grounds; thence South 299.32 feet; thence West 145.53 feet to a point on the East line of Lot 1, Van Buren Heights Association Grounds; thence South on said line, 85.68 feet; thence West along the South line of Lots 1,2 & 3 of said Plat 247.60 feet; thence South 117.20 feet; thence West 123.80 feet to the East line of Kentucky Avenue; thence North on same, 502.20 feet to the North line of Section 2; thence Westerly along the North line of Sections 2 and 3, to a point 1011.78 feet West of the Northeast corner of Section 3, Town 1 South, Range 17 West; thence South 665.20 feet; thence west 285.75 feet to the Northeast corner of Lot 14, Fern Valley Addition to the City of South Haven; thence

South, along the East line of said plat, 323.00 feet; thence East 33 feet; thence South 43.56 feet to the Northwest corner of Northside Estates Condominiums; thence East along the North line of said condominium, 708.66 feet; thence South along the East line of said Condominium, 858.60 feet to the North line of Brockway Avenue; thence East on said North line, 50 feet; thence South to the Black River; thence Southerly along the Black River to the South line of Assessor's Plat of Terrace Park; Thence Westerly along said South line to the Southwest corner of said plat and the South line of Oak Street; thence Westerly along the South line of Oak Street to a point that is 698.20 feet East of the Northeast corner of Block 3, Napier's Amended Addition to the City of South Haven; thence South 150 feet; thence West 56 feet; thence South to the North line of the Black River; thence Westerly along said line to the East line of the Landings Marina Condominiums; thence North 24° 25' West to the Northeast corner of said Condominiums; thence South 70° 48' 40" West 149.72 feet; thence South 50° 00' West 237.63 feet; thence South 20° 00' West to the North line of Wells Street; thence West on said North line to the West line of Lot 25 in Block 5, Dyckman & Woodman's Addition Extended Northeasterly; thence Southwesterly along said line to the Southwest corner of Lot 23 of said Block 5; thence Southeasterly along the South line of Lot 23 to the West line of Black River Street; Thence Southerly on said West line to the North line of Dyckman Avenue; thence Northwesterly along the North line of Dyckman Avenue to Lake Michigan; thence Southwesterly along Lake Michigan to the South line of Lot 16, Block 11, Dyckman & Woodman's Addition; thence Southeasterly along said South line to the West line of North Shore Drive; thence Southwesterly along said West line to the Southeast corner of Lot 2, Block 15, Monroe Park Subdivision; thence Southwesterly along the South line of Block 15 to the West line of Walk "H"; thence Northwesterly along said line 24 feet; thence Southwesterly and parallel with the South line of Block 14 in said plat, 132 feet to the East line of Walk "F"; thence Southeasterly on said line 24 feet; thence Southwesterly along the South line of Block 13, Monroe Park Subdivision 140 feet to the Southeast corner of Lot 5 said Block 13; thence Northwesterly along the East line of Lot 5, a distance of 66 feet; thence Southwesterly along the North line of Lot 5 to the East line of Grand Boulevard; thence Southwesterly along same to the Southwest corner of said Lot 5; thence Southeasterly and perpendicular to the South line of Block 13 to the Corp of Engineer's River Bulkhead which defines the North side of the Black River Channel; thence Southwesterly along said Bulkhead to the Shoreline of Lake Michigan extended Southwesterly through the North Pier; thence Southwesterly across the Black River Channel to a point of intersection of the South Bulkhead and Lake Michigan Shoreline lying South of the Bulkhead projected Northwesterly; thence Southerly along Lake Michigan to a point on the North line of Superior Street extended Westerly; thence East along said North line to a point 150 feet West of the West line of J.R. Monroe Boulevard; thence North 200 feet to the South line of Erie Street; thence East on said line to a point South of the center of Lots 9 and 11, Block 39, Original Village (now City) of South Haven; thence North on said line 266 feet to the South Line of Michigan Avenue; thence East 75 feet to the Northeast Corner of Lot 12, Block 39, said plat; thence North 141 feet; thence East 50 feet; thence North 75 feet to the Northwest corner of Lot 5, Block 38, said plat; thence East 200 feet to the West line of St. Joseph Street; thence South on same, 50 feet; thence East 166 feet; thence North 117.50 feet; thence North 72° 00' East 315.40 feet to the West line of Maple Street; thence South along said West line to the Northeast corner of Lot 1, Block 37, Original Village (now City) of South Haven; thence East 100 feet to the East line of Maple Street; thence along the former C & 0 Railroad and Water Street the following courses; 154.39 feet around a curve to the right with a radius of 518 feet and a chord that bears North

33° 25' 10" East 153.82 feet; North 62° 01' 50" East 62.07 feet; North 13° 44' 05" West 27.70 feet; North 70° 06' 30" East 107.63 feet; South 35° 03' 05" East 11.80 feet; and North 62° 01' 50" East to the South line of Water Street as recorded in Liber 108 Page 553; thence Northeasterly along said South line to a point West of the place of beginning; thence East to the place of beginning.

(Code 1965, Sec. 2.12; Ord. No. 632, 7-21-80; Ord. No. 647, 7-6-82; Ord. No. 659, 11-21-83; Ord. No. 661, 10-15-84; Ord. No. 737, 10-1-90; Ord. No. 881, Sec. 2, 5-15-00)

Secs. 22-27--22-35. Reserved.

DIVISION 2. REGULATIONS

Sec. 22-36. Use of bicycles, skateboards, in-line skates and similar devices.

(a) The riding, use or operation of roller-skates, in-line skates, skateboards, coasters, scooters and similar devices is prohibited within the portions of Central Business District as provided by the following boundaries description:

On those streets, sidewalks, parking lots and other public right-of-ways or property lying within the boundaries of and being inclusive of and commencing on Dyckman Avenue at the Westerly extension of the Dyckman Bridge to Conger Street, Broadway from Conger Street to Huron Street, Williams Street from Dyckman Avenue to the intersection of Water Street and Kalamazoo, Huron Street form Broadway Street to Kalamazoo Street, Kalamazoo Street from Huron Street to Water Street, Water Street from Williams Street and Kalamazoo Street to the South Beach Parking Area., including that portion of Riverfront Walk from the South Pier to Williams Street, the South Pier. Excluding that portion of the South Beach commonly known as the "Skate Park". This is demonstrated by the following diagram on file with the city.

(b) The riding of bicycles on the sidewalks within the entire Central Business District is also prohibited. This section shall not apply to wheelchairs or similar devices used by persons with disabilities.

(Ord. No. 704, Sec. 1, 3-31-881; Ord. No. 784, Sec. 1, 7-30-93; Ord. No. 864, Sec. 1, 9-1-98; Ord. No. 884, Sec. 1, 6-19-00)

Sec. 22-37. Penalty for violation of division.

Any person who shall violate any provision of this division shall be responsible for a misdemeanor.

(Ord. No. 704, Sec. 2, 3-31-88; Ord. No. 816, Sec. 11, 2-6-95; Ord. No. 883, 6-19-00; Ord. No. 884, Sec. 2, 6-19-00)

Secs. 22-38--22-61. Reserved.

ARTICLE III. RIVERFRONT DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN

Sec. 22-62. Definitions.

The terms used in this section shall have the same meaning given them in Act 197 as provided in this section, unless the context clearly indicates the contrary. As used in this article:

Act 197 means Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq., MSA 5.3010(1) et seq.), as amended, known as the Michigan Downtown Development Authority Act.

Authority means the downtown development authority of the city.

Authority board means the board of the authority, its governing body.

Development area means the riverfront development area designated in the development plan.

Development plan means that part of the development plan known as the riverfront plan.

Riverfront plan means the city downtown development authority development plan and tax increment financing plan (riverfront development), October 1988, submitted by the authority to the city council pursuant to Act 197 and approved by this article, as it may be hereafter amended.

Tax increment financing plan means the tax increment financing plan portion of the riverfront plan for the collection of tax increments.

(Ord. No. 717, Sec. 2, 12-19-88)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 22-63. Public purpose.

The city council finds and confirms the continued necessity to halt property value deterioration, to eliminate the causes of such deterioration and to promote economic growth, and determines that the riverfront development plan and tax increment financing plan adopted by the city council on December 19, 1988, constitute a public purpose.

(Ord. No. 738, Sec. 1, 10-1-90)

Sec. 22-64. Riverfront development plan and tax increment financing plan district.

The description of the riverfront development plan and tax increment financing plan district is as follows:

> Beginning at the centerline of North Shore Drive on the north revetment of the Black River, thence northerly to the centerline of South Street, thence easterly to the centerline of Park Avenue, thence northerly to the centerline of Black River Street, thence easterly and northerly along Black River Street to the north property line of Lot 5, Block 6, Dyckman & Woodman's Addition, thence easterly along said lot line to west edge of Black River, thence north and east along said westerly bank to the intersection of an extension of the south line of Lot 6 of the Supervisor's Plat of Avery Subdivision and the west bank of the Black River, thence east to the southeast corner of said Lot 6 of the

Avery Subdivision, thence east to the east line of Bailey Avenue, thence south to the intersection of said east line of Bailey Avenue and the south line of Conger Street, thence west along said south line of Conger Street to the centerline of Prospect Street, thence south to a point 46.5 feet south of the northeast corner of Lot 2, Block 7, Hale Conger & Co's. Addition, thence west to west property line of same lot, thence south to southeast corner of Lot 15, Block 7, Hale Conger & Co's. Addition, thence west to the west line of Lot 12, thence south on the same to a point 99 feet south of the northwest corner of Lot 2, Block 8, Hale Conger & Co's. Addition, thence east to centerline of Pearl Street, thence south to centerline of Phoenix Street, thence west 150 feet, thence south 149.25 feet, thence west 15 feet, thence south 222 feet to the northeast corner of Lot 10, Block 2, Dyckman Hale Co's. Addition, thence east to centerline of Pearl Street, thence south to centerline of Huron Street, thence west to centerline extended of Block 8, Dyckman Hale Co's. Addition, thence south on same to the northeast corner of Lot 6, Block 8, of the same block, thence west on north line of Lot 6 to centerline of Broadway Avenue, thence south to centerline of Michigan Avenue, thence west to centerline of Center Street, Block 19, Original Village Plat, thence north on same line extended to centerline of Eagle Street, thence east to the centerline extended of Lot 1, Block 20, Original Village Plat, thence north along said centerline to the southerly right-of-way line of Water Street, thence westerly about 140 feet to the southerly edge of existing traveled Water Street, thence southwesterly about 132 feet to the northerly right-of-way line of Water Street, as platted November 15, 1851, thence south 62 degrees 01 minutes 50 seconds west about 256.93 feet, thence north 35 degrees 03 minutes 05 seconds west 11.80 feet, thence south 70 degrees 06 minutes 30 seconds west 107.63 feet, thence south 13 degrees 44 minutes 05 seconds east 27.70 feet, thence south 62 degrees 01 minutes 50 seconds west 262.07 feet, thence along the westerly right-of-way of the old C&O Railroad, on a curve to the left with a radius of 518.00 feet to the far end of a chord that bears south 33 degrees 25 minutes 10 seconds west 153.82 feet to the easterly line of Maple Street, thence westerly 1000 feet, thence northerly about 118 feet, thence south 71 degrees 59 minutes 45 seconds west, southwesterly to the east property line, extended, of Lot 11, Block 37, Original Village Plat, thence south to the south property line of said Lot 11, thence west 166 feet, thence north 50 feet, thence west 200 feet, thence south 75 feet, thence west 50 feet, thence south 108 feet to the center of Michigan Avenue, thence west 75 feet, thence south 266 feet to the center of Erie Street, thence west 44.86 feet, thence south 233 feet, thence west to the water's edge of Lake Michigan, thence northwesterly to the center of the Black River channel, thence northeasterly to the centerline of North Shore Drive extended, thence northerly on said centerline, extended, to the point of beginning.

(Ord. No. 738, Sec. 1, 10-1-90)

Sec. 22-65. Determinations in accordance with Act 197.

In accordance with section 19 of Act 197, the city council has considered the factors enumerated and makes the following determinations:

(1) Since there were less than 100 residents in the development area, a development area citizen's council was not formed.

(2) The development plan meets the requirements set forth in section 17(2) of Act 197.

(3) The proposed method of financing the development is feasible, and the authority has the ability to arrange the financing.

(4) The development is reasonable and necessary to carry out the purposes of Act 197.

(5) The land included within the development area which may be acquired is reasonably necessary to carry out the purposes of the development plan and of Act 197 in an efficient and economically satisfactory manner.

(6) The development plan is in reasonable accord with the city's master plan.

(7) Public services, such as utilities, fire and police protection are or will be adequate to service the projects contemplated by the development plan.

(8) The change in the location of Water Street is necessary for the development and for the city, otherwise no changes in zoning, streets, street levels, intersections or utilities are necessary for the projects contemplated by the development plan.

(Ord. No. 717, Sec. 4, 12-19-88)

Sec. 22-66. Opportunity of representatives from development area to present opinions regarding plan.

Representatives of all taxing jurisdictions within which all or a portion of the development area lies have had reasonable opportunity to present their opinions and comments regarding the riverfront development plan and the tax increment financing plan to the city council.

(Ord. No. 717, Sec. 5, 12-19-88)

Sec. 22-67. Public hearing on plan; notice to interested parties.

The city council has held a public hearing on the development plan and tax increment financing plan, with notice properly given in accordance with section 18 of Act 197, and the city council has provided an opportunity for all interested persons to be heard regarding such plans.

(Ord. No. 717, Sec. 6, 12-19-88)

Sec. 22-68. Approval of plan.

The riverfront development plan and tax increment financing plan are hereby approved. The plan shall be maintained in the office of the city clerk and shall be available to the public for inspection and copying.
(Ord. No. 717, Sec. 7, 12-19-88)

Sec. 22-69. Voted millage not captured as tax increment revenue.

Voted millage for the city public schools, city community hospital and the city memorial library for capital improvement shall not be captured as tax increment revenue.

(Ord. No. 717, Sec. 8, 12-19-88)

Sec. 22-70. Approval and confirmation of development area.

The development area as set forth and described in the development plan is hereby approved and confirmed.

(Ord. No. 717, Sec. 9, 12-19-88)

Sec. 22-71. Transmittal of revenues to authority.

The city treasurer shall transmit to the authority that portion of the tax levy of all taxing bodies paid each year on real and personal property in the development area on the captured assessed value, as set forth in the tax increment financing plan.

(Ord. No. 717, Sec. 10, 12-19-88)

Secs. 22-72--22-90. Reserved.

ARTICLE IV. COMMUNITY RELATIONS COMMISSION

Sec. 22-91. Declaration of public policy.

It is hereby declared to be public policy of the city that all persons subject to its jurisdiction shall enjoy equal freedom and the opportunity to peacefully pursue their just aspirations. These freedoms and aspirations shall not be hindered on the basis of race, creed, national origin, religion, age, or sex.

(Ord. No. 746, Sec. 1, 10-31-91)

Sec. 22-92. Creation and terms of appointment.

There is hereby created a community relations commission for the city composed of 11 members to be appointed by the mayor with the advice and approval of the council. Three members of such commission shall be appointed in April of each year and shall serve for three-year terms, each commencing on May 1 following appointment. Initial appointments pursuant to this section shall be for partial terms appropriate to initiate the system of staggered terms outlined in this section, provided that such initial appointments shall be in such a manner so as to permit all the present members of the commission to complete the terms of their present appointment. Each vacancy among the appointed members of the community relations commission shall be filled in the manner provided for making original appointments and shall be for the balance of the vacated term. Membership shall be representative of the city. The mayor may, with the advice and approval of the council, appoint additional officers of the city as nonvoting, ex-officio members of the community relations commission.

(Ord. No. 746, Sec. 2, 10-31-91)

Sec. 22-93. Duties and functions.

(a) The community relations commission in cooperation with the city council and other public bodies shall:

(1) Provide a means in which the community can provide input and insight on the creation of positive community programming, projects and activities for all residents.

(2) Promote peaceful relations among the various racial, cultural, and religious groups within the community and discourage discriminatory practices toward or within such groups.

(3) Advise city government on programs and policies, including ordinance provisions, designed to protect and maintain the general welfare and safety of the community.

(4) Provide valuable information to aid in substantiating the need for programs promoting meaningful social change in accordance with public policy.

(5) Facilitate activities of other public and private organizations in efforts to improve relations and conditions among city citizens.

(6) Promote equal opportunity, counter effects of past discrimination, and initiate action that contributes to a harmonious community.

(b) All legislative and policy-making functions concerning community relations heretofore vested in the city council or in other public bodies shall remain the prerogative of such public body.

(Ord. No. 746, Sec. 3, 10-31-91)

Sec. 22-94. City manager to provide meeting place and secretarial services.

The city manager shall provide a meeting place and secretarial services for the community relations commission.

(Ord. No. 746, Sec. 5, 10-31-91)

Sec. 22-95. Rules of organization and procedure.

The community relations commission shall adopt rules of organization and procedure appropriate to the performance of its duties.

(Ord. No. 746, Sec. 4, 10-31-91)

Sec. 22-96. Annual status reports.

The community relations commission is expected to provide annual status reports to the city council.

(Ord. No. 746, Sec. 4, 10-31-91)

Sec. 22-97. Budget.

The community relations commission shall annually prepare and submit to the city manager an estimate of the expenditures of such commission for the next fiscal year, as provided in the city Charter.

(Ord. No. 746, Sec. 6, 10-31-91)

Secs. 22-98--22-120. Reserved.

ARTICLE V. HOUSING COMMISSION*

***Cross reference(s)--**Administration, ch. 2; housing code, Sec. 10-221 et seq.

Sec. 22-121. Purpose, creation and powers.

In order to purchase, acquire, construct, maintain, operate, improve, extend and repair housing facilities within the city, and to eliminate housing conditions which are detrimental to the public peace, health, safety, morals or welfare, there is hereby created a commission, to be known as the city housing commission, with power to effectuate such purposes. The city is authorized to issue notes and revenue bonds; to regulate the issuance, sale, retirement or refunding thereof; to regulate rentals of housing projects and use of revenue therefore; to provide for exercise of the power of eminent domain over private property for such projects; and to receive aid and cooperation from the federal government for the accomplishment of such purpose.

(Code 1965, Sec. 43.01)

Sec. 22-122. Membership; terms; compensation; removal; vacancy.

The commission shall consist of five members, appointed by the city council. The term of office of each member shall be five years. Members shall serve without compensation and may be removed from office by the appointing authority. Any vacancy on the commission shall be filled by the appointing authority for the remainder of the unexpired term.

(Code 1965, Sec. 43.02)

Sec. 22-123. Meetings; rules of procedure; quorum; officers and employees; funding.

The commission shall meet at regular intervals, such meetings to be public. It shall adopt its own rules of procedure and shall keep a record of the proceedings. Three members shall constitute a quorum for the transaction of business. A president and vice-president shall be elected by the commission. The commission may appoint a director who may serve as secretary, and such other employees or officers as shall be necessary. The commission shall prescribe the duties of all of its officers and employees and may, with the approval of the appointing authority, fix their compensation. The commission may from time to time, as necessary, employ engineers, architects and consultants. Funds for the operation of the commission may be provided by the city council, but the commission shall, as soon as possible, reimburse the city for all moneys expended by it for the commission from revenues received for the sale of bonds.

(Code 1965, Sec. 43.03)

State law reference(s)--Open meetings act, MCL 15.261, MSA 4.1800(11) et seq.

Sec. 22-124. Powers and duties.

Such commission shall have the following enumerated powers and duties:

(1) Determine in what areas of the city it is necessary to provide proper sanitary housing facilities for families of low income and for the elimination of housing conditions which are detrimental to the public peace, health, safety, morals and/or welfare.

(2) Purchase, lease, sell, exchange, transfer, assign and mortgage any property, real or personal, or any interest therein, or acquire the property by gift, bequest or under the power of eminent domain; to own, hold, clear and improve property; to engage in or to contract for the design and construction, reconstruction, alteration, improvement, extension, and/or repair of any housing project or parts thereof; to lease and/or operate any housing project.

(3) Control and supervise all parks and playgrounds forming a part of such housing development but may contract with existing departments of the city for operation or maintenance of either or both.

(4) Establish and revise rents of any housing project, but shall rent all property for such sums as will make them self-supporting, including all charges for maintenance and operation, for principal and interest on loans, bonds, and for taxes.

(5) Rent only to such tenants as are unable to pay for more expensive housing accommodations.

(6) Call upon other departments for assistance in the performance of its duties, but such departments shall be reimbursed for any added expense incurred therefore.

(7) It shall have such other powers relating to the housing facilities project as may be prescribed by ordinance or resolution of the city council, or as may be necessary to carry out the purposes of this chapter.

(Code 1965, Sec. 43.04)

Sec. 22-125. Conflicts of interest.

No member of the housing commission or any of its officers or employees shall have any interest directly or indirectly in any contract for property, materials or services to be acquired by the commission.

(Code 1965, Sec. 43.05)

Sec. 22-126. Recommendations.

(a) The housing commission may recommend to the city council the institution and prosecution of proceedings under the power of eminent domain in accordance with the laws of the state and/or provisions of any city Charter relative to condemnation.

(b) Housing projects contemplated by this article are hereby declared to be for public purposes within the meaning of the constitution, state laws and Charter relative to the power of eminent domain.

(Code 1965, Sec. 43.06)

Sec. 22-127. Transactions.

(a) All deeds, contracts, leases or purchases entered into by the commission shall be in the name of the city and shall be approved by the city council. Contracts for the purchase of necessary materials, leases with tenants and options need not be so approved.

(b) The commission shall have complete control of the entire housing project including the construction, maintenance and operation as fully and completely as if the commission represented private owners. Contracts for construction or purchase of materials entered into by the commission shall not be required to be made through the city purchasing department.

(c) The housing commission shall deposit all monies received by it in a bank approved by the city, and such monies shall be credited to the housing commission in a separate account.

(d) The bank shall honor any check or order drawn by the housing commission upon the account, if such check or order is signed on behalf of the housing commission by an officer or member designated by resolution, a certified copy of which shall be furnished to the bank.

(Code 1965, Sec. 43.07)

Sec. 22-128. Liability for acts.

(a) All claims that may arise in connection with the housing project shall be presented as are ordinary claims against the city, provided that written notice of all claims based upon injury to persons or property must be served upon the city clerk within 60 days from the happening of the injury. The disposition thereof shall rest in the discretion of the commission, and the cost of investigation, attorneys' fees, all claims that may be allowed and final judgments obtained from the claims shall be paid only from the operating revenue of the housing project.

(b) The notes, bonds, or other obligations or any claims of whatever nature against the housing project shall not be debts or charges against the city nor against any members of the commission. No individual liability shall attach for any official act done by any member of such commission.

(Code 1965, Sec. 43.08)

Sec. 22-129. Finances.

The city shall have power to borrow money or accept grants or other financial assistance from the federal government for or in aid of any housing project, to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by the city, including the power to pay premiums on any such insurance, to take over or lease or manage any housing facilities, project, or undertaking constructed or owned by the federal government, and to these ends, to comply with such conditions and enter into such trust indentures, leases or agreements as may be necessary, convenient or desirable.

(Code 1965, Sec. 43.09)

Sec. 22-130. Issuance of bonds.

The city shall have the right to issue revenue bonds for the purpose of defraying the cost of purchasing, acquiring, constructing, improving, enlarging, extending or repairing any housing project or combined projects, as set forth in Act No. 18 of the Public Acts of Michigan of 1933 Ex. Sess. (MCL 125.651 et seq., MSA 5.3011 et seq.), as amended.

(Code 1965, Sec. 43.10)

Chapters 23—25

RESERVED

Chapter 26

ELECTIONS*

***Cross reference(s)--**Administration, ch. 2.

Sec. 26-1. Division of city into wards.
Sec. 26-2. Effective date of ward designation.

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Sec. 26-1. Division of city into wards.

The city shall consist of three wards, without election precincts, as provided in this section:

(1) *Ward One.* Ward One of the city shall include that portion of the municipal corporation lying westerly of the centerline of Center Street, extended, and southerly of the centerline of Erie Street.

(2) *Ward Two.* Ward Two of the city shall consist of that portion of the municipal corporation lying easterly of the centerline of Center Street, and southerly of the centerline of Phoenix Street to Bailey Avenue; then easterly of the centerline of Bailey extended to the Black River; then easterly of the centerline to the city limits.

(3) *Ward Three.* Ward Three of the city shall consist of that portion of the municipal corporation not contained within Wards One and Two.

(Code 1965, Sec.Sec. 44.01--44.04)

Sec. 26-2. Effective date of ward designation.

The designation of wards in the city became effective June 1, 1981, pursuant to Ord. No. 640, enacted 3-23-81.

(Code 1965, Sec. 44.05)

Charter reference(s)--Designation of wards and precincts to continue as established prior to Charter, Sec. 3.3.

Chapters 27—29

RESERVED

Chapter 30

ENVIRONMENT*

***Cross reference(s)--**Administration, ch. 2; buildings and building regulations, ch. 10; offenses, ch. 54; parks and recreation, ch. 58; planning, ch. 62.

Article I. In General

Secs. 30-1--30-25. Reserved.

Article II. Noise

Sec. 30-26. Reserved.
Sec. 30-27. Definitions.
Sec. 30-28. General prohibitions.
Sec. 30-29. Specific prohibitions.
Sec. 30-30. Decibel level prohibitions.
Sec. 30-31. General exemptions.
Sec. 30-32. Test procedures.
Sec. 30-33. Special waivers.
Sec. 30-34. Social gatherings and parties.
Sec. 30-35. Enforcement and penalties.
Sec. 30-36. Severability.
Secs. 30-37--30-50. Reserved.

Article III. Nuisances

Division 1. Generally

Sec. 30-51. Garage Sales and Rumage Sales.
Secs. 30-52--30-60. Reserved.

Division 2. Controlled Substances

Sec. 30-61. Definitions.
Sec. 30-62. Declaration of public nuisance.
Sec. 30-63. Abatement of nuisance; costs.
Sec. 30-64. Presumption of public nuisance.
Sec. 30-65. Posting of properties declared public nuisances; record of properties.
Sec. 30-66. Unlawful entry or use of property ordered vacated or prohibited for occupancy.
Sec. 30-67. Penalty for violation of division.
Secs. 30-68--30-90. Reserved.

Article IV. Unwholesome Substances

Sec. 30-91. Definitions.
Sec. 30-92. Owner of property required to abate noxious or dangerous weeds.
Sec. 30-93. Notice of abatement to property owners.

Sec. 30-94. Action upon noncompliance of owner.
Sec. 30-95. Violation penalties.

ARTICLE I. IN GENERAL

Secs. 30-1--30-26. Reserved.

ARTICLE II. NOISE

Sec. 30-27. Definitions.

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

Commercial means property located within the following Zoning District Designations, to-wit: CBD Central Business District; B-1 Neighborhood Business District; B-2 General Business District; B-3 Waterfront Business District; and PUD Planned Unit Development – Residential or PUD Planned Unit Development – Commercial.

Decibel means a unit of sound level on a logarithmic scale measured relative to the threshold of audible sound to the human ear, in compliance with American National Standards Institute Standard S 1.1-1960.

Decibel on the A-weighted network or DBA, means decibels measured on the A-weighted network of a calibrated sound level meter utilizing the A-Level weight scale and the fast meter response, as specified in American National Standards Institute standard S 1.4-1971.

Fast Meter response means the meter ballistics of meter dynamic characteristics as specified by American national Standards Institute Standard S 1.4-1971.

Industrial means property located within the following Zoning District Designations, to-wit: I-1 Light Industrial District; and I-2 General Industrial District.

Property line means the imaginary line which represents the legal limits of property; including an apartment, condominium, room or other dwelling unit, owned, leased or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the property line shall be the nearest boundary of the public right-of-way.

Residential means property located within the following Zoning District Designations, to-wit: R-1 and R-2 One Family Residential District; RM-1 Restricted Multiple Family Residential District; and RM-2 Multiple Family Residential District.

(Ord. No. 725, Sec. 1, 6-15-89; Ord. No. 844, Sec. 1, 5-5-97)

Sec. 30-28. General Prohibitions.

No person shall create, assist in creating, permit, continue or permit the continuance of any noise that exceeds the limitations set forth in this article within the city. All noises that violate the restrictions of this division are hereby declared to be public nuisances.

(Ord. No. 725, Sec. 2, 6-15-89; Ord. No. 844, Sec. 1, 5-5-97)

Sec. 30-29. Specific Prohibitions.

No person shall conduct or permit any of the following activities if such activity produces frequent or long-continued noise that is clearly audible at or beyond the property line of the property on which they are conducted. The prohibitions of this section apply even if the sound level produced by a prohibited activity do not exceed the applicable level specified in Section 30-30.

(1) *Insect or animal control devices*. The operation, between 10:00 p.m. and 7:00 a.m. of any device which produces an audible sound for the purpose of killing, trapping, attracting, or repelling insects or animals.

(2) *Animal or bird sounds*. The keeping of any animal or bird which creates frequent or long-continued noise.

(3) *Attention arresters*. The sounding, between 10:00 p.m. and 7:00 a.m. of bells, chimes, sirens, whistles or similar devices.

(4) *Shouting and whistling.* Yelling, shouting, shooting, whistling or singing on the public street between the hours of 10:00 p.m. and 7:00 a.m.

(5) *Machines or devices for producing or reproducing sound.* Did then and there use, operate or permit to be operated, any radio receiving set, musical instrument, phonograph, magnetic tap player, compact disk player, or other machine or device for producing or reproducing of sound, from a moving or ***stationary*** vehicle in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the vehicle in which such machine or device is operated and who are voluntarily listeners thereto. The operation of any such set, instrument, phonograph, machine or devise in such a manner as to be plainly audible at a distance of 25 feet from the hours of 11:00 p.m. to 7:00 a.m. or 50 feet from the hours of 7:00 a.m. to 11:00 p.m. in any area whether inside or outside of the vehicle in which it is located shall be prima facia evidence of violation of this section, in violation of South Haven City Code Section 30-29(5).

(Ord. No. 725, Sec. 2, 6-15-89; Ord. No. 844, Sec.1, 5-5-97; Ord. No. 848, 8-18-97)

Sec. 30-30. Decibel Level Prohibitions.

(a) No person shall conduct or permit any activity, including those specific prohibitions listed in Section 30-29 that produces a DBA at or beyond the property line of the property on which it is conducted which exceeds the levels specified in Table I. Such noise levels shall be measured on the property line or on the adjacent property which is receiving the noise. Where property is used for both residential and commercial purposes, the limitations set forth for commercial property shall apply.

Table I

Producing the Sound	Receiving the Sound	Use of Property 7:00 a.m. to 11:00 p.m.	Use of Property 11:00 pm. to 7:00 a.m.
Residential	Residential	75	60
Commercial	Residential	80	60
Residential	Commercial	80	60
Commercial	Commercial	90	75
Industrial	Commercial	90	75
Industrial	Residential	80	60

(b) The following limited activities are exempted from the sound level limitations of this section.

(1) *Equipment operations.* Operation, between 7:00 a.m. and 6:00 p.m. of power equipment that does not produce a sound level exceeding 100 DBA at or beyond the property line of the property on which the equipment is operated.

(2) *Construction sounds.* Construction, repair, remodeling, demolition, drilling, wood cutting or excavating work conducted between 7:00 a.m. and 6:00 p.m. Mondays through Saturdays, except legal holidays, which does not produce a sound level exceeding 100 DBA at or beyond the property line of the property on which the work is being conducted.

(3) *Snow removal equipment operation.* Operation of snow removal equipment which does not produce a sound level exceeding 90 DBA at or beyond the property line of the property on which the equipment is operated.

(Ord. No. 844, Sec. 1, 5-5-97)

Sec. 30-31. General Exemptions.

The following activities are exempted from the sound level limitations of this division:

(1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, to restore public utilities or to protect persons or property from imminent danger.

(2) Sound made to alert persons to the existence of an emergency, danger or attempted crime.

(3) Activities or operations of governmental units or agencies.

(4) Parades, concerts, festivals, fairs or similar activities subject to any sound limitations included in the approval by the city.

(5) The operation or use between 9:00 a.m. and 10:00 p.m. of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds, whether stationary or mounted on a vehicle, subject to the following:

a. The only sound permitted are human speech or music.

b. Operations are permitted for a period not in excess of three hours daily.

c. Sound-amplifying equipment mounted on a vehicle shall not be operated unless the vehicle upon which such equipment is mounted is operated at a speed of at least ten miles per hour except when the vehicle is stopped or impeded by traffic.

d. The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the equipment and so that the volume is not unreasonably loud, raucous, jarring or disturbing to persons within the area of audibility.

e. No sound-amplifying equipment shall be operated with an excess of 15 watts of power in the last stage of amplification.

f. The use for noncommercial purposes of one or more bells or chimes which does not exceed 90 seconds duration in an hour between 9:00 a.m. and 10:00 p.m.

g. Carillion playing between 9:00 a.m. and 10:00 p.m.

h. Any noise resulting from activities of a temporary duration permitted by law and/or for which a waiver has been granted by the city.

(Ord. No. 844, Sec. 1, 5-5-97)

Sec. 30-32. Test Procedures.

(a) *Generally.* Test instruments and procedures used for implementation and enforcement of this section shall substantially conform with applicable standards and recommended practices established by the Society of Automotive Engineers, Inc. and the American National Standards Institute, Inc. for the measurement of motor vehicle sound levels. The department of state highways and transportation has promulgated rules establishing these test procedures.

(b) *Exemptions for time to comply*. Upon good cause shown by the owner or responsible party for any noise source, the City Manager shall have the power to grant an exemption from the requirement of this ordinance in order to allow sufficient time for an installation of needed control equipment, facilities, or modifications to achieve compliance, not to exceed ten (10) days, provided that such exemption may be renewed as necessary, but only if satisfactory progress toward compliance is shown. A request for exemption shall be filed in writing with the City Manager.

(Ord. No. 844, Sec. 1, 5-5-97)

Sec. 30-33. Special Waivers.

(a) The City Manager shall have the authority, consistent with this ordinance, to grant special waivers.

(b) Any person seeking a special waiver pursuant to this ordinance shall file a written application with the City Manager. The written application shall contain information which

demonstrates that bringing the source of sound or activity for which the special waiver is sought into compliance with the ordinance would constitute an unreasonable hardship on the applicant, on the community, or for another purpose.

(c) In determining whether to grant or deny the application, the City Manager shall balance the hardship to the applicant, the community, and other persons of not granting the special waiver against the adverse impact on the health, safety and welfare of persons affected, the adverse impact of granting a special waiver.

(d) Special waivers shall be granted by notice to the applicant and may include all necessary conditions, including time limits on the permitted activity. The special waiver shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special waiver shall terminate it and subject the person to holding it to those provisions of this ordinance regulating the source of sounds or activity for which the special waiver was granted.

(Ord. No. 844, Sec. 1, 5-5-97)

Sec. 30-34. Social Gatherings and Parties.

(a) Any persons who is planning a social gathering or party at which it is anticipated that the noise levels will exceed those set forth in Section 30-30 herein may file a written application with the City Manager for a special waiver from said noise levels.

(b) Any persons seeking such a special waiver shall indicate in his or her application to the City Manager the specific reason why he or she will not be able to meet the established noise levels. The applicant shall also include a written statement that he or she has personally contacted all residents of properties abutting the property in question and none oppose the special waiver being requested. For purposes of the preceding sentence, when an applicant's property abuts on a street the applicant will also be required to notify and receive permission from residents directly across said street.

(c) Should the applicant be granted a special waiver pursuant to this subsection, it will be subject to the condition that any such special waiver will expire at 10:00 p.m. on Sunday through Thursday evenings and midnight on Friday and Saturday evenings.

(Ord. No. 844, Sec. 1, 5-5-97)

Sec. 30-35. Enforcement and Penalties.

(a) *Generally.*

(1) Any person who violates any portion of this ordinance, first offense, shall receive a civil infraction citation.

(2) If the order to cease or abate the noise is not complied with, or is complied with and then violated again within sixty (60) days, the person or persons responsible for the noise under Section 30-28 shall be charged with a misdemeanor offense subject to imprisonment for up to 90 days and/or up to $500 fine or both..

(Ord. No. 844, Sec. 1, 5-5-97; Ord. No. 914, 6-16-03)

Sec. 30-36. Severability.

Should any of the article, section, paragraphs, sentences, clauses or phrases of this chapter be declared unconstitutional or invalid, at the valid judgment or decision of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of the chapter in its entirety or any of the remaining articles, sections, paragraphs, sentences, clauses and phrases.

(Ord. No. 844, Sec. 1, 5-5-97)

Secs. 30-37—30-50. Reserved.

ARTICLE III. NUISANCES*

DIVISION 1. GENERALLY

***Cross reference(s)--**Offenses, ch. 54.

Sec. 30-51. Garage sales and rummage sales.

(a) Any person conducting such sale may not conduct such sale for a period of more than three days.
(b) No person shall be allowed more than two garage or rummage sales within any 12-month period.
(c) All such garage or rummage sales shall be held at the rear of a building, in garages or in confined quarters.
(d) Any person found to have violated this section shall be guilty of a civil infraction.

(Code 1965; 31.21; Ord. No. 893, 3-11-02)

Secs. 30-52--30-60. Reserved.

DIVISION 2. CONTROLLED SUBSTANCES*

***Cross reference(s)--**Open house parties, Sec. 54-241 et seq.

Sec. 30-61. Definitions.

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

Control means the authority to regulate, direct, superintend or govern, or the authority to exercise restraining or dominating influence over, including possessory right over property.

Controlled substance means as it is defined in Article 7, Part 71 of Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7101 et seq., MSA 14.15(7101) et seq.), as amended.

Drug paraphernalia means any item which is used or intended for use with a controlled substance.

Owner means any person who possesses or has any legal or equitable interest in a property. Owner also means any person who has or exercises control, custody or dominion over any property. Owner when used in this division shall mean all persons having an ownership record as disclosed by the records referred to in this division.

Property means any land, structure, house, building, premises, vehicle or any part thereof.

(Ord. No. 769, Sec. 2, 9-8-92)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 30-62. Declaration of public nuisance.

(a) Whenever the use, sale, furnishing, giving or possession of controlled substances or drug paraphernalia repeatedly occurs on any property, the city council may declare by resolution that the property is a public nuisance and order that the nuisance be abated as provided in this division. Such a declaration may occur only after there has been notice given to the owner of the property and the owner has had an opportunity to be heard.

(b) Notice of the public hearing shall be made to the owner and shall consist of personal service or the mailing of a certified letter to the owner as indicated by the city assessor's records and the records of the register of deeds of Van Buren County and/or Allegan County. The notice shall state the nature of the alleged nuisance and the time, date and location of the hearing. If the notice is served by certified mail, it shall be delivered with a return receipt requested according to the practices of the post office. Receipt of the return receipt card by the city indicating the owner's having received such notice shall be deemed notice to the owner. Such notice to the owner shall occur at least seven calendar days prior to the date of the public hearing.

(Ord. No. 769, Sec. 3, 9-8-92)

Sec. 30-63. Abatement of nuisance; costs.

If the city council determines that a property is a public nuisance, it may, by resolution, in addition to any other remedies available at law or in equity, order abatement of the nuisance as follows:

(1) Order the property vacated and declare that occupancy of all or a portion of the property is prohibited and authorize the police department to prohibit the occupancy of the property by either padlocking or boarding up all or a portion of the property for a period of up to one year.

(2) Determine that the owner shall be liable for the cost of any materials and personnel, including police and any other city employees or contractors, involved in the padlocking or boarding up of the property; and/or

(3) Determine that the costs set out in this section shall be the personal debt of the owner or assess the costs against the property as a lien.

(Ord. No. 769, Sec. 4, 9-8-92)

Sec. 30-64. Presumption of public nuisance.

It shall be presumed that a public nuisance exists if the following events occur:

(1) The property has been searched by the police and controlled substances or drug paraphernalia have been found.

(2) A letter, informing the owner that controlled substances and/or drug paraphernalia have been found by the police at the property, and of the potential consequences if a similar activity reoccurs at the property, has been:

a. Personally served on the owner; or

b. Sent by certified mail to the owner of record, as indicated in the city assessor's records and the records of the Van Buren County register of deeds, and a return receipt card has been received by the city; or

c. If the certified letter process as outlined in subsection b. above fails and is returned without a signed receipt card by the city, the city may then post a notice on the premises in a conspicuous place that controlled substances and/or drug paraphernalia have been found by the police at the property and states the possible circumstances if a similar activity occurs at the property. This method is only to be used if conditions of subsections a. and b. above are not met.

(3) The same property is again searched by the police within one year from the date of the first search and controlled substances or drug paraphernalia are again found.

(Ord. No. 769, Sec. 5, 9-8-92; Ord. No. 800, Sec. 1, 12-6-93)

Sec. 30-65. Posting of properties declared public nuisances; record of properties.

(a) Whenever the city council has ordered a property to be vacated or has ordered that occupancy is prohibited, the police department shall post a notice so stating at each entrance to any building on the property and shall replace any notices that are missing or illegible. No person shall tamper with, damage, alter, destroy or remove any such notice posted by the city.

(b) The city clerk shall maintain a record of those properties which have been declared to be public nuisances and of the remedy ordered by the city council. Any citizen requesting a copy of the record of such properties shall be supplied one at no charge. The record shall be available for public inspection at the city clerk's office.

(Ord. No. 769, Sec. 7, 9-8-92)

Sec. 30-66. Unlawful entry or use of property ordered vacated or prohibited for occupancy.

No person shall enter upon or use any property which has been declared by the city council to be a nuisance and which has been ordered vacated and for which occupancy has been prohibited. A person who violates this section shall be subject to the penalties provided in this division.

(Ord. No. 769, Sec. 8, 9-8-92)

Sec. 30-67. Penalty for violation of division.

A person who violates section 30-65 or 30-66 shall be guilty of a misdemeanor and shall be subject to the following criminal penalties which shall be assessed in addition to any other lawful sentence that the sentencing court may impose:

(1) For a first violation, a fine of not less than $175.00 nor more than $500.00.

(2) For a second violation, a fine of not less than $300.00 nor more than $500.00, 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 $400.00 nor more than $500.00, and imprisonment for not less than 30 days nor more than 90 days.

(Ord. No. 769, Sec. 9, 9-8-92)

Secs. 30-68--30-90. Reserved.

ARTICLE IV. UNWHOLESOME SUBSTANCES

Sec. 30-91. Definitions.

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

Debris means those things or conditions existing on private property in the city which are hazardous to the public health or safety or which constitute a fire hazard, including conditions which by their unsightly appearance can result in decreasing the value of other properties in the immediate area. Debris includes but is not limited to the following:

(1) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, lumber and other things, partially dismantled, nonoperating, wrecked, junked or discarded motor vehicles, construction vehicles, car parts, garden tools, building supplies, household appliances, toys or furniture;

(2) Any condition which provides harborage for rats, mice, snakes and other vermin;

(3) Any building or other structure in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located; and

(4) The carcasses of animals or foul not disposed within a reasonable time after death.

Noxious and poisonous weeds means and includes, but is not limited to, Canada thistle, dodders, mustard, milkweed, wild carrots, bind weed, perennial sough thistle, hoary alyssm, ragweed, poison ivy, poison sumac, bellus parenus, ox-eye daisies, burdock, poison oak and mulberry.

(Code 1965, Sec. 14.01; Ord. No. 731, Sec. 2, 3-15-90)

Cross reference(s)--Definitions generally, Sec. 1-2.

State law reference(s)--Similar definitions of noxious weeds, MCL 247.62, MSA 9.631(2).

Sec. 30-92. Duty to cut grass and abate noxious or dangerous weeds.

(a) Except as otherwise provided in this section, all persons owning property in the city are responsible for cutting, destroying, and removing or causing to be cut, destroyed, or removed from the land all noxious and poisonous weeds growing thereon, as well as dead grass and brush thereon, to prevent such weeds from going to seed or blossom, as the case may be; to prevent grass from growing in excess of 9 inches in height, except for dune grass; and preventing such dead grass and brush from becoming a fire hazard.

(b) The duties imposed in this section extend to the portions of the abutting public right-of-way that would become part of the property if the right-of-way were vacated, except for any roadway paved for vehicular traffic. In addition, the responsible party shall cut or remove any dune grass growing in the right-of-way to the extent needed to comply with the clear-vision-corner requirements in section 1712 of the zoning ordinance.

(c) In addition to the property owner, the following individuals shall also be responsible parties subject to the duties imposed in this section: (i) a tenant or other person shall be a responsible party upon expressly assuming responsibility in a written contract with the property owner; (ii) the manager of a business on a property, meaning the person that exercises the most control over the day-to-day operations of the business.

(d) For parcels that are 3 acres or greater in size, responsible parties need only to cut grass 20’ from the property line on all sides to be in compliance with this article.

(e) The duty to cut grass under this article shall not apply to heavily forested areas in which above-ground tree roots prevent grass from being cut with a lawnmower.

(Code 1965, Sec. 14.02; Ord. No. 731, Sec. 3, 3-15-90; Ord. No. 1020, Sec. 1, 09-08-2015)

Sec. 30-93. Notice of abatement.

(a) The code enforcement officer or his authorized agent is hereby empowered to notify in writing the responsible party for any lot within the city, to cut, destroy, and remove any tall grasses or noxious or poisonous weeds, or other noxious matter or miscellaneous debris present on the property or abutting right-of-way.

(b) Such notice of abatement shall include a statement of the consequences should the responsible party not comply with the notice of abatement. If the responsible party does not abate such conditions within five business days of the date of the notice, the city shall cut, remove, or destroy such noxious weeds or grasses (except dune grass) exceeding 9 inches in height, or remove any miscellaneous debris.

(c) A notice shall also be published annually in the local newspaper informing owners that the city shall cut, remove, or destroy any noxious weeds or grass exceeding 9 inches in height or remove any miscellaneous debris by the responsible party within 5 business days of the date of a notice of abatement issued under subsection (b).

(Code 1965, Sec. 14.03; Ord. No. 731, Sec. 4, 3-15-90; Ord. No. 1020, Sec. 2, 09-08-2015)

Sec. 30-94. Action upon noncompliance of responsible party.

(a) Should the responsible party fail to conform with the provisions of this article, it shall be the duty of the code enforcement officer or his designated agent to cause all of the noxious conditions, noxious and poisonous weeds and dead grass, brush and grass exceeding 9 inches in height, and miscellaneous debris to be cut, destroyed, removed, or towed from the land.

(b) The responsible party shall be liable for the costs of any work performed pursuant to this section by the city of the city's designated contractor. The amount of the fee shall be equal to the cost of performing the work, plus a fee of $150.00 to cover the costs incurred by the city in enforcing this ordinance.

(c) The city may bill the responsible party for the applicable fee. The bill shall inform its recipient of the right to request a hearing before the director of public works (or, if the director of public works was involved in issuing the notice of abatement, the city manager), within 15 days of the issuance of the bill, to show cause as to why the recipient should not be held financially responsible for the cost of the work.

(Code 1965, Sec. 14.04; Ord. No. 731, Sec. 5, 3-15-90; Ord. No. 1020, Sec. 3, 09-08-2015)

Sec. 30-95. Violation penalties.

In addition to any other remedies set forth in this article, any person who shall violate any provision of this article shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Ord. No. 816, Sec. 12, 2-6-95)

Chapters 31—33

RESERVED

Chapter 34

FIRE PREVENTION AND PROTECTION*

***Cross reference(s)--**Buildings and building regulations, ch. 10; offenses, ch. 54; planning, ch. 62; solid waste, ch. 70.

State law reference(s)--Fires and fire departments, MCL 70.1 et seq., MSA 5.1397 et seq.; state fire prevention act, MCL 29.1 et seq., MSA 4.559(1) et seq.; crimes related to explosives and bombs, MCL 750.200 et seq., MSA 28.397 et seq.; crimes related to fires, MCL 750.240 et seq., MSA 28.437 et seq.

Article I. In General

Secs. 34-1--34-25. Reserved.

Article II. Fire Department

Sec. 34-26.--34.28. Reserved.
Sec. 34-29. Reports by fire chief.
Sec. 34-30. Reserved.
Sec. 34-31. Duties of department.
Sec. 34-32. Ordering of destruction of buildings at fire.
Sec. 34-33. Duties of police at fire.
Secs. 34-34--34-55. Reserved.

Article III. Fire Prevention Code

Sec. 34-56. Adoption by reference.
Sec. 34-57. Enforcement.
Sec. 34-58. Available for public inspection.
Sec. 34-59. Definitions.
Sec. 34-60. Amendment to fire prevention code.
Secs. 34-61--34-63. Reserved.

Article IV. Premises Identification

Sec. 34-64. Reserved.

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ARTICLE I. IN GENERAL

Secs. 34-1--34-25. Reserved.

ARTICLE II. FIRE DEPARTMENT*

***Cross reference(s)--**Administration, ch. 2.

Sec. 34-26.--34-28. Reserved.

Sec. 34-29. Reports by South Haven Area Emergency Services Authority (SHAESA).

The Authority shall from time to time but not less frequently than each quarter year report to the city manager all matters pertaining to the department with recommendations. The director shall make an annual report summarizing the department's activities for the previous year with recommendations. Report information shall include but not be limited to the number of calls broken down to types, where occurred, i.e., city, townships or mutual aid, property loss/saved, progress report on department, i.e., training, events, public relations, etc. For every structure involved in a fire in the city a report shall be made by the fire chief to the city assessor for property value adjustments.

(Code 1965, Sec. 3.09; Ord. No. 774, Sec. 1(3.08), 12-21-92; Ord. No. 895, 4-1-02)

Sec. 34-30. Reserved.

Sec. 34-31. Duties of department.

The duties of the fire department shall include but not be limited to the following:

(1) *Alarm of fire.* Upon any alarm of fire the members of the fire department shall repair immediately to the place of the fire. The Director or officer in charge shall station all apparatus and men for the extinguishment of fires and see to it that all persons do the duty prescribed by law and ordinances and shall direct such measures as he may deem advisable for the effectual extinguishment of the fire. The incident command system shall be used for all emergency responses.

(2) *Authority and control over persons at fire.* The officer in command shall have full authority and control over all persons present at any fire. The officer in command may detail one or more police officers or other persons as guards over any property, and such person shall be vested with full police powers during such service and he may exclude any and all persons from the premises during the continuance of any fire.

(3) *Authority to command assistance.* The officer in command may command the assistance of any person either to aid in the extinguishment of the fire or in the removal of property beyond its reach; and all persons thus assisting, and all members of the department may enter upon any ground or building to lay hose or to make any use thereof deemed necessary in the extinguishment of fire or in the removal of property beyond its reach. Any person who refuses to obey any

reasonable order of the Director or officer in command of the fire department made under the authority granted in this subsection shall be in violation of this article.

(4) *Emergency medical service.* All fire department members certified as basic emergency medical technicians or as emergency medical technician specialists or higher upon being dispatched to respond to any alarm of a medical emergency shall repair immediately to the place of the medical emergency and render emergency treatment as prescribed by law and ordinances. The member with the highest level of training shall have command of that medical emergency and/or in the case of equal training the senior medical person shall have command of that medical emergency. Fire department rank shall carry no authority over level of emergency medical service training.

(Code 1965, Sec. 3.04; Ord. No. 774, Sec. 1(3.04), 12-21-92; Ord. No. 895, 4-1-02)

Sec. 34-32. Ordering of destruction of buildings at fire.

The officer in charge of the fire department at any fire, with the concurrence of the city manager or mayor, may cause any building to be destroyed when deemed necessary to arrest the progress of the fire, or for public health and safety from an unsafe structure, and any claims for damages therefore shall be adjusted as provided by law.

(Code 1965, Sec. 3.05; Ord. No. 774, Sec. 1(3.05), 12-21-92; Ord. No. 895, 4-1-02)

Sec. 34-33. Duties of police at fire.

The chief of police and/or one of the officers on duty shall repair immediately on alarm of fire to the place where fire may be and report to the officer in charge of the fire department for the preservation of public peace and the enforcement of laws, ordinances, rules and regulations and the orders of the officer in charge.

(Code 1965, Sec. 3.07; Ord. No. 774, Sec. 1(3.07), 12-21-92; Ord. No. 895, 4-1-02)

Secs. 34-34--34-55. Reserved.

ARTICLE III. FIRE PREVENTION CODE*

***Editor's note--**Ord. No. 817, Sec. 1, adopted Feb. 6, 1995, revised Art. III in its entirety to read as herein set out. The former Art. III pertained to similar subject matter and derived from Code 1965, Sec.Sec. 29.01, 29.04, 29.06, Ord. No. 775, Sec. 1, adopted Dec. 21, 1992, Ord. No. 764, Sec.Sec. 2, 3, adopted May 1, 1992, and Ord. No. 803, Sec.Sec. 1--4, adopted Dec. 20, 1993.

Sec. 34-56. Adoption by reference.

Pursuant to the provisions of Michigan Act 230 of 1972, as amended, the BOCA National Fire Prevention Code, 1993 edition, as published by the 2003 International Fire Code, is hereby adopted by reference and made a part of this chapter as if fully set forth in this article,

subject to the modifications contained in this article and subject to such further modifications as the city shall adopt from time to time.

(Ord. No. 817, Sec. 1, 2-6-95; Ord. No. 895, 4-1-02; Ord. No. 936, Sec. 2, 08-15-05)

State law reference(s)--Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Sec. 34-57. Enforcement.

The International Fire Prevention Code, 2003 Edition, shall be enforced by the Director of the fire department or his designated representative.

(Ord. No. 817, Sec. 1, 2-6-95; Ord. No. 895, 4-1-02; Ord. No. 936, Sec. 2, 08-15-05)

Sec. 34-58. Available for public inspection.

A complete copy of the International Fire Prevention Code 2003 is available for public use and inspection at the offices of the city clerk.

(Ord. No. 817, Sec. 1, 2-6-95; Ord. No. 895, 4-1-02; Ord. No. 936, Sec. 2, 08-15-05)

Sec. 34-59. Definitions.

Whenever the words "city," "jurisdiction," or "governmental unit" are used in the International Fire Code 2003 they shall mean the City of South Haven. Whenever the word "state" is used in the International Fire Code 2003, it shall mean the State of Michigan.

(Ord. No. 817, Sec. 1, 2-6-95; Ord. No. 895, 4-1-02; Ord. No. 936, Sec. 2, 08-15-05)

Sec. 34-60. Amendment to fire prevention code.

The following sections of the International Fire Code 2003 are hereby revised as follows:

(1) *Section 101.1.* Insert ‘City of South Haven.’

(2) *Section 109.3* Insert ‘Misdemeanor Offence, amount of $500.00 dollars, 90 days’.

(3) *Section 111.4* Insert ‘not less than $100.00 or more than $500.00’.

The limits referred to in certain sections fo the International Fire Code 2003 are hereby established as follows:

(1) *Section 3204.3.1.1.* Not more than 999 water gallons nor within 500 feet of a residential neighborhood or as permitted by the fire code official and/or the International Fire Code 2003.

(2) *Section 3404.2.9.5.1.* Not more than 999 water gallons nor within 500 feet of a residential neighborhood or as permitted by the fire code official and/or the International Fire Code 2003.

(3) *Section 3406.2.4.4.* Within 500 feet of a residential neighborhood or as permitted by the fire code official and/or the International Fire Code 2003.

(4) *Section 3804.2.* Not more than 2,000 water gallons within 500 feet of a residential neighborhood or as permitted by the fire code official and/or the International Fire Code 2003.

(Ord. No. 817, Sec. 1, 2-6-95; Ord. No. 832, Sec. 3, 4, 11-20-95; Ord. No. 895, 4-1-02; Ord. No. 936, Sec. 2, 08-15-05)

Sec. 34-61. Explosive substances.

No person shall keep or cause to be kept in or upon or under the public spaces and places within the city any tank or other article or device for the vending or sale of gasoline, naphtha, or other explosive substance, or oils, without a license therefore. No such tank or device for the sale of gasoline, naphtha, or other explosive substance, or oils, shall be maintained in or upon or under sidewalks, streets, alleys or public places in the city without first obtaining permission from the council so to do. All permits to maintain such tanks and devices shall be subject to revocation by the council at any time.

(Code 1965; 31.20. ; Ord. No. 895, 4-1-02)

Secs. 34-62 thru 34-63. Reserved.

Chapters 35—37

RESERVED

Chapter 38

HARBORS AND WATERWAYS*

***Cross reference(s)--**Parks and recreation, ch. 58.

State law reference(s)--Authority of city to adopt ordinances, rules and regulations for management, government and use of harbors and waterways under its control, MCL 281.541 et seq., MSA 5.2768(11) et seq.; marine safety act, MCL 281.1001 et seq., MSA 18.1287(1).

Article I. In General

Sec. 38-1. Definitions.
Sec. 38-2. Enforcement of chapter.
Sec. 38-3. Violation penalties.
Sec. 38-4. Harbor regulations.
Sec. 38-5. Operation of open fire apparatus on vessels or docks.
Sec. 38-6. Modification of structures which encroach onto the City Harbor lines.
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Article II. Harbor Commission

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Sec. 38-29. Expenditures and funding.
Sec. 38-30. Duties.
Sec. 38-31. Property management.
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Article III. Harbormaster

Sec. 38-56. Creation of office.
Sec. 38-57. Appointment; compensation.
Sec. 38-58. Accounts and records of damages and encroachments; report.
Sec. 38-59. Report of statistical data.
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Secs. 38-61--38-80. Reserved.

Article IV. Port Authority

Sec. 38-81. Creation; membership; terms and appointments.
Sec. 38-82. Meetings; election of chairman; rules; minutes.

Sec. 38-83. Purposes.
Sec. 38-84. Clerical assistance.
Sec. 38-85. Compensation.
Sec. 38-86. Budget.

ARTICLE I. IN GENERAL

Sec. 38-1. Definitions.

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

Harbor means a portion of a lake or other body of water either naturally or artificially protected so as to be a place of safety for watercraft.

Open fires means any outdoor cooking apparatus that utilizes wood or charcoal as a source of a heat.

Vessel means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(Ord. No. 778, Sec. 1.0, 3-1-93)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 38-2. Enforcement of chapter.

The harbormaster, police officer, fire department personnel or code enforcement officer may cite any person violating this chapter.

(Ord. No. 778, Sec. 4.0, 3-1-93)

Sec. 38-3. Violation penalties.

Any person who shall violate any provision of this article shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 9.05; Ord. No. 816, Sec. 13, 2-6-95)

Sec. 38-4. Harbor regulations.

The following is a list of harbor regulations:

(1) *Dumping.* No person shall throw, dump, deposit, or cause or permit to be thrown, dumped, or deposited any garbage, refuse, or other unwholesome substance, or any stone, timber, rubbish, junk, or similar substance into the waters of the harbor, or into the waters of Lake Michigan, except with a written permit from the building inspector and under the supervision of the harbormaster.

(2) *Piles or structures.* No person shall drive any piles or deposit any timber, stone, or other substance or structure so as to project above or below the surface of the waters of the harbor or any part thereof, or beyond the established dock lines, without written permission of the city. All piling, timber, stone or other substance

or structure so placed or laid without written permission of the city is hereby declared to be public nuisance.

(3) *Mooring.* No vessel, craft, or float shall be moored or anchored in the harbor or laid up alongside any dock or wharf in such a manner as to prevent the passage of other vessels, craft or floats. The harbormaster shall have the power to remove or order removed any vessel, craft, or float so anchored, moored, or laid up when it is necessary to do so to facilitate the passage of other vessels, craft, or floats.

(4) *Abandoned or sunken vessels.* No person shall abandon any vessel, craft, or float or allow the same to sink in the harbor. Every vessel, craft, or float which shall be so abandoned or allowed to sink in the harbor is hereby declared to be a public nuisance and may be removed at the owner's expense.

(5) *Bridge interference.* No vessel, craft, or float shall be moored, laid up, brought to a stop, or anchored within the harbor so as to interfere with or hinder the opening or closing of any bridge across any of the waters of the harbor.

(6) *Striking structures.* No vessel, craft, or float shall be so navigated as to collide, strike or come into contact with any bridge, bridge abutment, center pier, or other piles or revetments thereof.

(7) *Maintenance of docks, wharves and revetments.* Every person owning, leasing, or in possession of premises abutting on the harbor shall at all times keep the wharves, docks, and revetments of such premises in good repair and condition.

(8) *Harbor lines.* No person owning, leasing or in possession of premises abutting on the harbor shall encroach upon the harbor lines as now established or which may hereafter be established, except as permitted in Section 38-6.

(9) *Fastening vessels.* No person shall allow or suffer any vessel, craft, or float owned, leased, or in his possession or charge to lie in the harbor insecurely fastened or to drift upon the water of the harbor. The harbormaster shall notify the master, owner, or other person in charge of any such vessel, craft, or float to secure the same without delay. If the harbormaster shall be unable to find the master, owner, or person in charge of such vessel, craft, or float, the harbormaster shall have the power to secure and fasten such vessel, and all expense incurred shall be chargeable to the owner, lessee, or person in possession of such vessel.

(10) *Cargo handling.* No person discharging the cargo of any vessel, craft, or float, and no owner, lessee, or person, firm, or corporation in possession of any dock or wharf shall permit or suffer any part of such cargo to remain projecting over the front of such dock or wharf after the vessel, craft, or float shall be removed from the wharf.

(11) *Name on vessels.* No master or person in charge or in possession of any vessel, craft, or float shall operate, navigate, keep, or maintain the same in the harbor unless such vessel, craft, or float shall have a name or distinctive number plainly and conspicuously displayed thereon.

(12) *Altering docks, wharves or revetments.* No person shall construct or alter any dock, wharf, or revetment within the harbor without first having obtained a permit therefore from the building inspector.

(13) *Information to harbormaster.* Every person in charge of any vessel shall, upon request of the harbormaster, furnish information as to the owner of a vessel and their address, the kind and amount of cargo, whom consigned to and where shipped from, how long the ship will be in port, and such other information as may be desirable to keep a complete record of harbor activities.

(14) *Disturbing the peace.* No person within the harbor shall disturb the peace and quiet of any neighborhood or any family or person by loud and unusual noises or by loud, boisterous laughing, singing, howling and screaming; by uttering profane or obscene language; or be guilty of cursing and swearing, threatening, quarreling, challenging, striking or fighting under any pretense whatsoever.

(15) *Dangerous vessels.* No vessel, craft, or float shall be moored, anchored, or operated in the harbor in a manner or in a deteriorated condition such as to endanger lives or property.

(16) *No wake speed.* Within the harbor, it shall be unlawful for the operator of a vessel to exceed a slow--no wake speed.

(Code 1965, Sec. 9.04; Ord. No. 890, Sec. 1, 7-16-01)

Sec. 38-5. Operation of open fire apparatus on vessels or docks.

It shall be unlawful for any person to operate any apparatus that utilizes an open fire aboard any vessel that is moored to or occupying a dock situated within the city harbor, regardless of whether the dock is publicly or privately owned.

(Ord. No. 778, Sec. 2.0, 3-1-93)

Sec. 38-6. Modification of structures which encroach onto the city harbor lines.

(a) Definitions:

(1) *Legal nonconforming structure*: For the purposes of this section, a structure encroaching upon the city harbor line, in a violation of the Section 38-4, and which existed prior to the establishment of the harbor lines.

(2) *Encroachment*: The distance of extension of a structure past the established city harbor line, measured towards the center thread of the river.

(3) *Parcel*: For the purposes of this section, a single lot, a condominium development, or if adjacent lots are owned by the same owner of record, all adjacent lots under the same ownership.

(4) *Average encroachment calculation*: A calculation of the average distance of encroachment of all docks on a single parcel. The encroachment of a dock that does not extend past the harbor line shall be valued at zero.

(b) The Harbor Commission may approve modification in the length, width and location of legal nonconforming structures which encroach upon the harbor lines under the following conditions:

(1) The Harbor Commission finds that the proposed change constitutes an improvement to safe navigation and an increase in the width of the navigation channel.

(2) The encroachment of each and every dock on the parcel shall not be greater than the average encroachment.

Upon the granting of approval by the Harbor Commission, the Building Inspector shall be authorized to issue a building permit for the parcel.

(Ord. No. 890, Sec. 3, 7-16-01)

Secs. 38-6--38-25. Reserved.

ARTICLE II. HARBOR COMMISSION*

***Charter reference(s)--**Authority in council to create a harbor commission, Sec. 4.15.

Cross reference(s)--Administration, ch. 2.

Sec. 38-26. Creation.

A city harbor commission is hereby created.

(Code 1965, Sec. 9.02(a))

Sec. 38-27. Members compensation; terms; removal.

The harbor commission shall consist of seven members, six of whom shall be appointed by the council from the citizenry, and one member of the city council to represent the council. All members of the harbor commission shall serve as such without compensation. The term of each appointed citizen member shall be for three years or until his successor takes office. Members may be removed as provided for in the city Charter.

(Code 1965, Sec. 9.02(b))

Sec. 38-28. Officers; terms; meetings; rules; records.

The harbor commission shall elect its chairman from the appointed members and establish such other officers as it may determine. The term of the chairman shall be one year, with eligibility for reelection. The harbor commission shall hold at least one regular meeting each

month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations which shall be a public record. Minutes of such meetings shall be submitted monthly to the city council.

(Code 1965, Sec. 9.02(c))

Sec. 38-29. Expenditures and funding.

All expenditures of the harbor commission shall be administered by the city manager and shall be within the amounts appropriated for the purpose by the city council, which shall provide for funds, equipment and accommodations necessary for the harbor commission's work.

(Code 1965, Sec. 9.02(d))

Sec. 38-30. Duties.

(a) It shall be the function and duty of the harbor commission to make recommendation to the appropriate public officials and agencies for the physical development of all waterfront properties located within the city limits of the city. Plans for expansion and new development of waterfront properties which require the approval of the planning commission and/or the city council shall be referred to the harbor commission, which shall forward the plans to the planning commission and/or the city council with its written findings, comments, and recommendations concerning the plans. The harbor commission shall have referred to it all applications submitted to the U.S. Army Corps of Engineers for development within the city and the harbor commission shall submit to the city council, via appropriate public officials, a draft comment and recommendation from the city to the Corps of Engineers concerning the application.

The Zoning Administrator, or the Harbor Commission when requested by the Zoning Administrator, shall review site plans for repair and maintenance of existing structures in and near the water. Repair and maintenance shall only include projects which meet the following conditions:

(1) The structure shall be a legal conforming or legal nonconforming structure, pursuant to the South Haven Zoning Ordinance and the South Haven City Code.

(2) There shall be no change to the length, width and location of the proposed structure, except as provided in subsection 4 of this section.

(3) The replacement material shall be a reasonable substitute for the original material, as determined by the Zoning Administrator or the Harbor Commission.

(4) A reasonable increase in the piling diameter shall be acceptable, as determined by the Zoning Administrator or the Harbor Commission.

(5) The existing structure intended to be repaired or maintained shall not be removed until a building permit has been issued for the repair and maintenance work to replace it.

(6) The Department of Environmental Quality has issued a permit for construction, or the Department of Environmental Quality states in writing that no permit is

required for the project, or the Zoning Administrator determines that the project does not require a Department of Environmental Quality permit.

All such approvals by the Zoning Administrator for repair and maintenance projects shall be recorded by the Zoning Administrator in a log, along with the rationale for the approval, and presented to the Harbor Commission.

Repair and maintenance of dock structures shall be defined as including removal and replacement of materials, including complete removal and replacement of the structure.

(b) The Harbor Commission shall, when it deems necessary, propose to the city council ordinances which provide for the use and development of all waterfront properties within the city.

(Code 1965, Sec. 9.02(f); Ord. No. 894, 3-11-02)

Sec. 38-31. Property management.

The harbor commission shall make recommendation to the city manager as to the management of waterfront properties owned or operated by the city and shall, with the concurrence of the city manager and the approval of the city council, establish rules for the use of city-owned waterfront property.

(Code 1965, Sec. 9.02(g))

Sec. 38-32. Traffic and safety regulations.

The harbor commission shall, with the concurrence of the enforcing agency, recommend to the city council ordinances governing traffic and safety on waters within the city.

(Code 1965, Sec. 9.02(h))

Sec. 38-33. Budget.

The harbor commission shall, at the beginning of each year, prepare and submit to the city manager their suggestions concerning the proposed annual budget for maintenance and operation of city-owned waterfront facilities. The harbor commission shall, as deemed appropriate, make recommendation from time to time to the city manager concerning such operation and maintenance.

(Code 1965, Sec. 9.02(i))

Sec. 38-34. Capital improvements.

The harbor commission shall prepare and submit to the city manager, for inclusion in his annual five-year capital improvement plan, its annual five-year capital improvement proposals with respect to city-owned waterfront facilities. The harbor commission, when requested by the city council, shall assist the administration in overseeing the development of approved projects.

(Code 1965, Sec. 9.02(j))

Sec. 38-35. Liaison with other agencies.

The harbor commission shall, when deemed appropriate or when requested by the city council, assist the city in its relations with the U.S. Army Corps of Engineers, the state department of natural resources, U.S. Coast Guard, and other similar agencies concerning matters affecting the Black River and waterfront facilities and in the negotiation and drafting of proposed agreements with such agencies.

(Code 1965, Sec. 9.02(k))

Sec. 38-36. Time limit.

(a) Any approval given by the harbor commission under which work is not started within 12 months or, when such use or work has been abandoned for a period of six months, shall lapse and cease to be in effect.

(Ord. No. 801, Sec. 1, 12-20-93)

Sec. 38-37. Other conditions.

In authorizing the commission may, in addition to the specific conditions of approval called for in this article, attach thereto such other conditions regarding the location, character, landscaping, or such other matters as are reasonably necessary to the furtherance of the intent and spirit of this article and the protection of the public interest and for such other purposes. To insure compliance with such conditions, the commission may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond.

(Ord. No. 801, Sec. 1, 12-20-93)

Secs. 38-38--38-55. Reserved.

ARTICLE III. HARBORMASTER*

***Cross reference(s)--**Administration, ch. 2.

State law reference(s)--Authority of city to employ a harbormaster with full police powers, MCL 281.542, MSA 5.2768(12).

Sec. 38-56. Creation of office.

There is hereby created the office of harbormaster, which office shall carry with it the powers and duties usually appertaining thereto and, in addition, the enforcement of this chapter and the powers and duties set forth in this article. The office of harbormaster shall be a division of the city. He shall serve as recording secretary and ex-officio member of the harbor commission.

(Code 1965, Sec. 9.03(a))

Sec. 38-57. Appointment; compensation.

The harbormaster shall be appointed by the city manager of the city and shall serve at the pleasure of the manager. The harbormaster, with the consent of the city manager, shall have the power to appoint one or more deputies to assist him/her in the performance of their duties, such deputies to assume the duties of harbormaster during his absence, disqualification, or illness. The harbormaster shall receive such compensation as may from time to time be determined by the city council. No compensation shall be paid deputy harbormasters.

(Code 1965, Sec. 9.03(b))

Sec. 38-58. Accounts and records of damages and encroachments; report.

The harbormaster shall keep an accurate account and record of all damage to bridges, docks, wharves, and other public property or private property pertaining to the harbor and shall gather information and evidence concerning such damage, the cause thereof, and responsibility therefore, and shall from time to time make a detailed report thereof to the city manager. It shall be the duty of the harbormaster to report all encroachments upon the harbor lines as now established, or which may hereafter be established, and to take such action as may be necessary to prevent such encroachments.

(Code 1965, Sec. 9.03(c))

Sec. 38-59. Report of statistical data.

The harbormaster shall prepare and preserve all statistical data respecting the harbor and shall report the data to the city manager and the harbor commission.

(Code 1965, Sec. 9.03(d))

Sec. 38-60. Use of harbor.

The harbormaster shall give such orders and directions relative to the location, change of place or station, manner of moving or use of the harbor of or by every vessel, craft, or float lying, moving, anchored, or laid up in the harbor, as may be necessary to promote good order therein and the safety and equal convenience of such vessels, craft, and floats and so regulate the same that the harbor shall not be unnecessarily congested.

(Code 1965, Sec. 9.03(e))

Secs. 38-61--38-80. Reserved.

ARTICLE IV. PORT AUTHORITY*

***Cross reference(s)--**Administration, ch. 2.

Sec. 38-81. Creation; membership; terms and appointments.

There is hereby created a port authority commission which shall consist of not to exceed ten members, residing in the city or in the general trading area of the city. Each member shall

serve for a term of two years. The mayor shall appoint all members to the commission, subject to the approval of the council.

(Code 1965, Sec. 2.02(a))

Sec. 38-82. Meetings; election of chairman; rules; minutes.

The port authority commissioners shall meet within ten days after their appointments, shall elect a chairman from among the members, and shall formulate their rules of procedure. The commission shall hold one regular meeting each month and such other meetings as it may deem necessary. The commission shall keep minutes of its meetings, and the minutes shall be made available to the council for approval or acceptance.

(Code 1965, Sec. 2.02(b))

Sec. 38-83. Purposes.

The primary purpose of the port authority commission shall be to further the commercial and economic interests of the Port of South Haven by acting in an advisory capacity to the mayor and council, in regard to the needs and means for the development of the Port of South Haven to attain its maximum development as a port on the Great Lakes. The commission shall:

(1) Make studies as to the best and most sound means to finance needed improvements to the Port of South Haven.

(2) Conduct research and study for the purpose of recommending to the council a long range program of development and progress for the Port of South Haven.

(3) Promote the Port of South Haven by contacting potential or present users of the port, and to create and disseminate suitable literature, pamphlets and other written material containing facts pertaining to such port, and to aggressively create interest in the port to the end that increased usage of the port shall result.

(4) Make a report to the council of its proceedings at such times as may be reasonable or when requested by the council.

(Code 1965, Sec. 2.02(c))

Sec. 38-84. Clerical assistance.

The city clerk and his staff shall furnish needed clerical assistance to the port authority commission including mailing of notices of meetings and correspondence. The meetings of the commission shall be held in the council room of the city hall unless previously engaged.

(Code 1965, Sec. 2.02(d))

Sec. 38-85. Compensation.

Members of the port authority commission shall serve without compensation or other remuneration, except that they shall be reimbursed for reasonable and necessary expenses incurred or made in the conduct of their duties.

(Code 1965, Sec. 2.02(e))

Sec. 38-86. Budget.

The port authority commission shall, prior to budget time, submit to the council a request for funds for the ensuing year.

(Code 1965, Sec. 2.02(f))

Chapters 39—41

RESERVED

Chapter 42

HEALTH AND SANITATION*

***Cross reference(s)--**Administration, ch. 2; businesses, ch. 14; planning, ch. 62.

Article I. In General

Secs. 42-1--42-25. Reserved.

Article II. Outdoor Gatherings

Division 1. Generally

Sec. 42-26. Purpose of article.
Sec. 42-27. Definitions.
Sec. 42-28. Penalty for violations.
Secs. 42-29--42-40. Reserved.

Division 2. License

Sec. 42-41. Required.
Sec. 42-42. Application.
Sec. 42-43. Plans.
Sec. 42-44. City manager’s findings.
Sec. 42-45. Requirements for applicants.
Sec. 42-46. Issuance.
Sec. 42-47. Contents.
Sec. 42-48. Denial.
Sec. 42-49. Revocation.

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ARTICLE I. IN GENERAL

Secs. 42-1--42-25. Reserved.

ARTICLE II. OUTDOOR GATHERINGS

DIVISION 1. GENERALLY

Sec. 42-26. Purpose of article.

The city council finds and declares that the interests of the public health, safety and welfare of the citizens of South Haven require the regulation, licensing and control of assemblages of large numbers of people in excess of those normally drawing upon the health, sanitation, fire, police, transportation, utility and other public services regularly provided in this city.

(Code 1965, Sec. 17.01)

Sec. 42-27. Definitions.

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

Attendant means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.

Licensee means any person to whom a license is issued pursuant to this article.

Outdoor assembly, referred to in this article as assembly, means any event, attended by more than 500 attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including, but not limited to, musical festivals, rock festivals, peace festivals or similar gatherings, but does not mean:

(1) An event which is conducted or sponsored by a governmental unit or agency on publicly owned land or property;

(2) An event which is conducted or sponsored by an entity qualifying for tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1954, being 26 USC section 501(c)(3), as incorporated by reference in section 201 of the Michigan Income Tax Act of 1967, being Act No. 281 of the Public Acts of Michigan of 1967 (MCL 206.1 et seq., MSA 7.557(101) et seq.), as amended; or

(3) An event held entirely within the confines of a permanently enclosed and covered structure.

Sponsor means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.

(Code 1965, Sec. 17.02)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 42-28. Penalty for violations.

(a) It shall be unlawful for a licensee, his employee, or agent, to knowingly:

(1) Advertise, promote or sell tickets to, conduct, or operate an assembly without first obtaining a license as provided in this article.

(2) Conduct or operate an assembly in such a manner as to create a public or private nuisance.

(3) Conduct or permit, within the assembly, any obscene display, exhibition, show, play, entertainment or amusement.

(4) Permit any person on the premises to cause or create a disturbance in, around, or near the assembly by obscene or disorderly conduct.

(5) Permit any person to unlawfully consume, sell or possess intoxicating liquor while on the premises.

(6) Permit any person to unlawfully use, sell, or possess any narcotics, narcotic drugs, drugs or other substances as defined in the Controlled Substances Act of the Public Health Code (MCL 333.7101 et seq., MSA 14.15(7101) et seq.), as amended.

(b) Any of the violations in this section is a separate offense, is a nuisance per se immediately enjoinable in the circuit court, and is punishable as a misdemeanor by imprisonment for not more than 90 days or by a fine of not more than $500.00, or both such fine and imprisonment. Any such violation is sufficient ground for revocation of the license and for the immediate enjoinder of the assembly by the circuit court.

Sec. 42-29. Consuming Alcoholic Beverages at Outdoor Assembly or Other Community Wide Special Event.

(a) As used in this section, “alcoholic beverages” means alcohol, alcoholic liquor, beer, mixed spirit drink, mixed wine drink, spirits, and wine as those terms are defined in the Michigan Liquor Control Code, 1998 PA 58, as amended, MCL 436.1101 et seq.

(b) In a resolution approving an outdoor assembly or other community wide special event, City Council may authorize the service and consumption of alcoholic beverages within City-owned facilities or on City-owned property in beer tents or in other similar temporary structures approved in accordance with this Article. The resolution shall establish the terms and conditions for such service and consumption.

(c) City Council approval of service and consumption of alcoholic beverages at an outdoor assembly or other community wide event shall not be construed to relieve a licensee of responsibility to comply with all other applicable state or local laws, rules, regulations or

ordinances, including the application for and acquisition of a liquor license from the Michigan Liquor Control Commission, if necessary.

(d) The sale and consumption of alcoholic beverages may occur on publicly-owned property only in areas designated in a resolution adopted by the City Council which may be further limited in the approved special events permit.

(e) The City Council shall from time to time adopt policies and procedures to regulate the service and consumption of alcoholic beverages in public in conjunction with a community wide special event authorized under this section. All service and consumption of alcoholic beverages permitted pursuant to this section shall be in accordance with those policies and procedures.

(f) Notwithstanding the provisions of Section 42-27, this section is applicable to an event conducted or sponsored by an entity qualifying for tax exempt status under section 501(c)(3) of the Internal Revenue Code.

(g) The City Council shall require indemnification and insurance coverage in amounts set from time to time by resolution. Proof of insurance, with copies of certificates naming the City as an additional endorsed insured are required prior to final approval.

(Code 1965, Sec. 17.12; Ord. No. 1000, Sec. 1, 02-04-2013)

Secs. 42-30--42-40. Reserved.

DIVISION 2. LICENSE

Sec. 42-41. Required.

No person shall sponsor, operate, maintain, conduct or promote an outdoor assembly in the city unless he shall have first made application for, and obtained, as prescribed in this division, a license for each such assembly.

(Code 1965, Sec. 17.03)

Sec. 42-42. Application.

An application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the city clerk and shall be made at least 60 days prior to date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee of $50.00, excluding nonprofit organizations in which the fee is waived. The application shall include the following:

(1) The name, age, residence and mailing address of the person making the application. Where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of incorporation shall be filed, and the names and

addresses shall be provided of all shareholders having financial interest greater than $500.00.

(2) A statement of the kind, character, and type of proposed assembly.

(3) The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to the use of the site for the proposed assembly.

(4) The dates and hours during which the proposed assembly is to be conducted.

(5) An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes.

(Code 1965, Sec. 17.04; Ord. No. 897, 04-15-02)

Sec. 42-43. Plans.

(a) Each application shall be accompanied by a detailed explanation, including drawings, and diagrams where applicable, of the prospective licensee's plans to provide for the following:

(1) Police and fire protection.

(2) Food and water supply and facilities.

(3) Health and sanitation facilities.

(4) Medical facilities and services including emergency vehicles and equipment.

(5) Vehicle access and parking requirements.

(6) Camping and trailer facilities.

(7) Illumination facilities.

(8) Communications facilities.

(9) Noise control and abatement.

(10) Facilities for cleanup and waste disposal.

(11) Insurance and bonding arrangements.

(b) In addition, the application shall be accompanied by a map of the overall site of the proposed assembly.

(Code 1965, Sec. 17.05)

Sec. 42-44. City manager's findings.

On receipt by the clerk, copies of the application shall be forwarded to the city manager. The city manager shall review and investigate matters relevant to the application and within 20 days of receipt thereof shall report his findings and recommendations to the city council.

(Code 1965, Sec. 17.06)

Sec. 42-45. Requirements for applicants.

In processing an application the city council shall require the following:

(1) *Security personnel.* The licensee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the police chief is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the assembly, based upon the number of persons to attend and the type of assembly.

(2) *Water facilities.* The licensee shall provide potable water, sufficient in quantity and pressure to ensure proper operation of all water using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and if not available, then from a source constructed, located, and approved in accordance with Part 127 of Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.12701 et seq., MSA 14.15(12701) et seq.), as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, or from a source and delivered and stored in a manner approved by the city manager.

(3) *Restroom facilities.* The licensee shall provide separate enclosed flush-type water closets as defined in Act No. 266 of the Public Acts of Michigan of 1929 (MCL 338.901 et seq., MSA 14.451 et seq.), as amended, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable state or local law. If such flush-type facilities are not available, the city manager may permit the use of other facilities which are in compliance with Section 12771 of Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.12771, MSA 14.15(12771), as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.

a. The licensee shall provide lavatory and drinking water facilities constructed, installed, and maintained in accordance with Act No. 266 of the Public Acts of 1929 (MCL 338.901 et seq., MSA 14.451 et seq.), as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. All lavatories shall be provided with hot and cold water and soap and paper towels.

b. The number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

Facilities	*Male*		*Female*
Toilets	1:300		1:200
Urinals	1:100		
Lavatories	1:200		1:200
Drinking Fountains		1:500	
Taps or Faucets		1:500	

c. Where the assembly is to continue for more than 12 hours, the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

Facilities	*Male*	*Female*
Shower heads	1:100	1:100

d. All facilities shall be installed, connected, and maintained free from obstructions, leaks and defects and shall at all times be in operable condition as determined by the city manager.

(4) *Food service.* If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Part 129 of Act No. 368 of the Public Acts of 1978 (MCL 333.12901 et seq., MSA 14.15(12901) et seq.), as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. If the assembly is distant from food service establishments open to the public, the licensee shall make such food services available on the premises as will adequately feed those attending.

(5) *Medical facilities.* If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff, strength, medical and other supplies and equipment of such facilities shall be such as to handle all first aid help and shall be approved by the city manager.

(6) *Liquid waste disposal.* The licensee shall provide for liquid waste disposal in accordance with the United States Public Health Service Publication No. 526, entitled, Manual of Septic Tank Practice. If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with Act No. 181 of the Public Acts of Michigan of 1986 (MCL 325.312 et seq., MSA 14.434(11) et seq.), as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. Prior to issuance of any license, the licensee shall provide the city manager with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will ensure proper, effective and frequent removal of liquid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

(7) *Solid waste disposal.* The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered, flytight and rodentproof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide

the city manager with a true copy of an executed agreement in force and effect with a licensed refuse collector, which agreement will ensure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health. The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides, shall not be used in any way so as to contaminate food, equipment, or otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.

(8) *Public swimming pools.* The licensee shall provide or make available public swimming pools only in accordance with Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.1101 et seq., MSA 14.15(1101) et seq.), as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

(9) *Access and traffic control.* The licensee shall provide for ingress to and egress from the premises so as to ensure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the state. Traffic lanes and other space shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the police chief must approve the licensee's plan for access and traffic control.

(10) *Parking.* The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall he provide less than one automobile space for every four persons attending.

(11) *Camping and trailer parking.* A licensee who permits persons to remain on the premises between the hours of 2:00 a.m. and 6:00 a.m. shall provide for camping and trailer parking and facilities in accordance with Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.1101 et seq., MSA 14.15(1101) et seq.), as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

(12) *Illumination.* The licensee shall provide electrical illumination of all occupied areas sufficient to ensure the safety and comfort of all attendants. The licensee's lighting plan shall be approved by the city manager.

(13) *Insurance.* Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than $100,000.00 and property damage insurance with a limit of not less than $25,000.00 from a company approved by the commissioner of insurance of the state, which insurance shall ensure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto, and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the city clerk in writing at least ten days before the expiration or cancellation of the insurance.

(14) *Bonding.* Before the issuance of a license, the licensee shall obtain, from a corporate bonding company authorized to do business in the state, a corporate surety bond in the amount of $100,000.00 in the form to be approved by the city attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this article and all applicable provisions of state or local law, and which shall indemnify the city, its agents, officers, and employees and the city council against any and all loss, injury or damage whatever arising out of or in any way connected with the assembly and which shall indemnify the owner on property adjoining the assembly site for any costs accountable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.

(15) *Fire protection.* The licensee shall, at his own expense, take adequate steps as determined by the fire chief to ensure fire protection.

(16) *Fencing.* The licensee shall erect a fence, completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access, and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.

(17) *Communications.* The licensee shall provide public telephone equipment for general use on the basis of at least one unit for each 1,000 attendants or fraction thereof. Sound producing equipment including, but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of the city.

(18) *Miscellaneous.* Prior to the issuance of a license, the council may impose any other conditions reasonably calculated to protect the health, safety, welfare and property of attendants or of citizens of the city.

(Code 1965, Sec. 17.10)

Sec. 42-46. Issuance.

Within 30 days of the filing of the application, the city council shall issue, set conditions prerequisite to the issuance of, or deny a license. The city council may require that adequate security or insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, within five days of such action, notice thereof must be mailed to the applicant by certified mail, and, in the case of denial, the reasons therefore shall be stated in the notice.

(Code 1965, Sec. 17.07)

Sec. 42-47. Contents.

A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license and any other conditions imposed pursuant to this article. It shall be posted in a conspicuous place upon the premises of the assembly, and shall not be transferred to any other person or location.

(Code 1965, Sec. 17.09)

Sec. 42-48. Denial.

A license may be denied if:

(1) The applicant fails to comply with any or all requirements of this article, or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law.

(2) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

(3) In the opinion of the majority of the city council, it is not in the best interests of the city that a license be granted.

(Code 1965, Sec. 17.08)

Sec. 42-49. Revocation.

The city council may revoke a license whenever the licensee, his employee or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth in this article or with any and all provisions, regulations, ordinances, statutes, or other laws incorporated in this article by reference.

(Code 1965, Sec. 17.11)

Chapters 43—45

RESERVED

Chapter 46

HUMAN RELATIONS*

***Cross reference(s)--**Administration, ch. 2; buildings and building regulations, ch. 10.

Sec. 46-1. Finding of fact and statement of policy.
Sec. 46-2. Penalty for violation of chapter.
Sec. 46-3. Discrimination in regard to sale or rental of real property prohibited.
Sec. 46-4. Exemption to chapter.

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Sec. 46-1. Finding of fact and statement of policy.

It is hereby found that the population of the city consists of people of many races, colors, religions, ancestries, national origins, and physical conditions, and that discrimination in housing

violates the public policy of the city and that such discrimination in housing is injurious to the public health, safety and general welfare of the city and its inhabitants.

(Code 1965, Sec. 45.01)

Sec. 46-2. Penalty for violation of chapter.

Any person convicted of violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to the penalties prescribed in section 1-13.

(Code 1965, Sec. 45.04)

Sec. 46-3. Discrimination in regard to sale or rental of real property prohibited.

No owner of real property, lessee, sublessee, real estate broker or salesman, lender, financial institution, builder, advertiser, or agent of any of the foregoing shall discriminate against any other person because of the religion, race, color, national origin, sex, age or disability of such other person or because of the religion, race, color, national origin, sex, age or disability of the friends or associates of such other person, in regard to the sale or rental of, or dealings concerning, real property located in the city.
(Code 1965, Sec. 45.02)

Sec. 46-4. Exemption to chapter.

(a) The provisions of this chapter shall not apply to the rental of a room to three or fewer persons in a single dwelling unit, the remainder of which dwelling unit is occupied by the owner or member of his immediate family or a lessee of the entire dwelling unit or members of his immediate family.

(b) Nothing in this chapter shall require an owner to offer property to the public at large before selling or renting it, nor shall this chapter be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color, national origin, sex, age or disability.

(Code 1965, Sec. 45.03)

Chapters 47—49

RESERVED

Chapter 50

MANUFACTURED HOMES AND TRAILERS*

***State law reference(s)--**Mobile home commission act, MCL 125.2301 et seq., MSA 19.855(101) et seq.; public health code, MCL 333.1101 et seq., MSA 14.15(1101) et seq.

Sec. 50-1. Definitions.
Sec. 50-2. Enforcement of chapter.
Sec. 50-3. Mobile home parks.
Sec. 50-4. Parking--Outside of a mobile home park.
Sec. 50-5. Same--Unoccupied mobile homes.
Sec. 50-6. Same--Mobile home for 48-hour residential occupancy.
Sec. 50-7. Same--Mobile homes on street.
Sec. 50-8. Same--Mobile homes in front yards.
Sec. 50-9. Same--Mobile homes for other than storage or residential purposes.

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Sec. 50-1. Definitions.

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

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. "Mobile home" shall also include motor homes and recreational vehicles, as defined in MCL 125.771(b) and (c).

Mobile home park means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

(Ord. No. 797, Sec. 1, 12-6-93)

Cross reference(s)--Definitions generally, Sec. 1-2.

State law reference(s)--Similar definitions, MCL 125.2301, MSA 19.855(102).

Sec. 50-2. Enforcement of chapter.

The city manager shall appoint one or more persons who shall have the authority to enter and inspect at any reasonable time any premises upon which a mobile home is parked, used or occupied for the purpose of ascertaining that the owner, operator or occupant thereof is complying with all statutes, ordinances and rules and regulations governing such parking, using or occupying.

(Code 1965, Sec. 33.09)

Sec. 50-3. Mobile home parks.

(a) All mobile home parks for three or more mobile homes shall be governed by the mobile home park laws of the state.

(b) Mobile home parks for one or two mobile homes are not permitted in the city.

(c) Locations of mobile home parks shall be as set forth in the city zoning regulations, which are not included in this volume.

(Code 1965, Sec. 33.02)

Sec. 50-4. Parking--Outside of a mobile home park.

No person shall park a mobile home outside a mobile home park except as may be permitted by this chapter.

(Code 1965, Sec. 33.03)

Sec. 50-5. Same--Unoccupied mobile homes.

Parking of one unoccupied mobile home in an accessory private garage or building is permitted. Parking of an unoccupied mobile home in a rear yard in any district is permitted providing the following conditions are met:

(1) That no living quarters are maintained or any business practiced in the mobile home while the mobile home is so parked or stored;

(2) That the mobile home is no closer than six feet to any lot line;

(3) That the total square footage of the portion of the rear yard occupied by the mobile home does not exceed 20 percent of the total unoccupied portion of the rear yard on any lot.

(Code 1965, Sec. 33.04)

Sec. 50-6. Same--Mobile home for 48-hour residential occupancy.

Forty-eight-hour parking of a mobile home for residential occupancy is permitted outside a mobile home park providing that:

(1) The police department is notified of this use within 24 hours after this use is commenced;

(2) The occupants of the mobile home have free access to and the unlimited use of the sanitary facilities of the dwelling on the premises;

(3) Only one such use is permitted to any trailer owner or occupant in any one year;

(4) Only one such use is permitted on any lot in any one year.

(Code 1965, Sec. 33.05)

Sec. 50-7. Same--Mobile homes on street.

(a) Mobile homes shall not be allowed to remain on any street, parkway, or public land within the city, if such motor home is supplied with any electric, water or sanitary sewer utility from any private or public source unless approval is granted by the city council resolution prior to the commencement of the above activity.

(b) No person shall park any mobile home in any street, alley or other public property or place in excess of 12 hours.

(Code 1965, Sec. 33.06; Ord. No. 797, Sec. 2, 12-6-93)

Sec. 50-8. Same--Mobile homes in front yards.

No mobile home shall occupy any portion of any front yard.

(Code 1965, Sec. 33.07)

Sec. 50-9. Same--Mobile homes for other than storage or residential purposes.

Except as provided in section 50-5 or 50-6 no person shall park a mobile home outside a mobile home park without a permit therefore from the city. All requests to use a mobile home within the city outside a mobile home park for other than storage or residential purposes shall be made in writing to the council. Such requests shall state the name of the applicant, the proposed use of the mobile home, the location of the mobile home and the requested length of time the mobile home is to be used. The following uses are exempt from this section:

(1) Mobile homes used in connection with public health or welfare agencies, such as collection of blood, or chest X-rays, may be parked without a permit therefore.

(2) Mobile homes used for field offices on construction sites are permitted providing there are no residences established in these mobile homes and it is noted that these mobile homes will be used on the application for a building permit. These mobile homes are required to be parked on the building site stated in the building permit.

(3) Mobile homes in connection with any traveling amusement show, carnival or circus which has obtained a permit from the city. All such mobile homes must be parked on the site stipulated in the permit.

(Code 1965, Sec. 33.08)

Chapters 51—53

RESERVED

Chapter 54 OFFENSES*

***Cross reference(s)--**Animals, ch. 6; environment, ch. 30; nuisances, Sec. 30-51 et seq.; fire prevention and protection, ch. 34; traffic and vehicles, ch. 82.

State law reference(s)--Crimes, MSA title 28.

Article I. In General

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Sec. 54-2. Radio and television interference.
Sec. 54-3. Prowling.
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Sec. 54-5. Storage of firewood.
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Sec. 54-76. Petit larceny.
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Sec. 54-102. Loitering.
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Sec. 54-105. Consuming alcoholic liquor in public place.
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Sec. 54-107. Frequenting place of illegal sale of liquor.

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Sec. 54-114. Disturbances at schools.
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Secs. 54-116--54-135. Reserved.

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Sec. 54-138. Use of obscene language.
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Sec. 54-166. Throwing object at vehicle.
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Sec. 54-181. Discharge of dangerous devices.
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Article VIII. Offenses Involving Minors

Division 1. Generally

Sec. 54-201. Minors in pool halls.
Secs. 54-202--54-210. Reserved.

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Division 3. Parental Responsibility

Sec. 54-221. Penalties for violation of division.
Sec. 54-222. Hours.
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Sec. 54-224. Ignorance of minor's whereabouts no defense.
Sec. 54-225. Business owners prohibited to allow minors to violate curfew hours on their premises.
Sec. 54-226. Police duties.
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Sec. 54-228. Contributing to neglect or delinquency of children under the age of 17 years.
Secs. 54-229--54-240. Reserved.

Division 4. Open House Parties

Sec. 54-241. Definitions.
Sec. 54-242. Penalty for violation of division.
Sec. 54-243. Controller of residence responsible for illegal possession by minors of alcoholic beverages or controlled substances.
Sec. 54-244. Exceptions.

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ARTICLE I. IN GENERAL

Sec. 54-1. Definitions.

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

Public place means any street, alley, park, public building or any place of business, grounds, parking lots, area or assembly in the city which is generally open to the public.

Public view means within the view of a person who is in or upon any public place.

(Ord. No. 779, Sec. 1, 3-11-93)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 54-2. Radio and television interference.

Between the hours of 1:00 p.m. and midnight no person shall knowingly operate within the city any machine, device, apparatus, or instrument, the operation of which causes reasonably preventable electrical interference with radio or television reception, within the city. X-ray pictures, examinations, or treatments may be made at any time if the machines or apparatus used therefore are properly equipped to avoid all unnecessary or reasonably preventable interferences with radio or television reception and are not negligently operated.

(Code 1965, Sec. 42.18)

Sec. 54-3. Prowling.

No person shall prowl, wander or move about any public place or the private premises of any other person without authority or the permission of the owner or occupant of such premises.

(Ord. No. 779, Sec. 1(42.01(c)(3)), 3-11-93)

Sec. 54-4. Spitting in public.

No person shall spit on any sidewalk or on the floor or seat of any public carrier, or on any floor, wall, seat or equipment of any place of public assemblage.

(Ord. No. 779, Sec. 1(42.01(c)(22)), 3-11-93)

Sec. 54-5. Storage of firewood.

(a) It shall be unlawful for any owner, occupant, tenant or lessee, using or occupying any building, house, structure or grounds within the corporate limits of the city, to allow accumulations of wood debris that is to be used, or can be used for the purpose of burning in a fireplace, stove or furnace, to be scattered about and upon his property.

(b) All wood which is accumulated and stored on any property shall be neatly stacked in rows. The storing of wood in the front yard is prohibited.

(c) When stored outside, wood stacks shall not be allowed to lay on the exposed ground surface, but shall be elevated no less than one foot above the surface in order to prevent the nesting of rats, snakes, opossum and other vermin or harmful pests.

(Code 1965, Sec. 14.06)

Secs. 54-6--54-25. Reserved.

ARTICLE II. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS*

***Cross reference(s)--**Administration, ch. 2.

Sec. 54-26. Obstructing, resisting officer, failure to obey, failure to disperse.

No person shall obstruct, resist, hinder or oppose any city officer or employee, including police officers and firefighters, in the performance of their duties. No person shall refuse to obey the lawful command of any police officer, member of the national guard of the state or member of the armed forces of the United States of America when on active duty and acting under authority of local, state or federal officials. No person shall fail to disperse when directed to do so by a police officer.

(Ord. No. 779, Sec. 1(42.01(c)(19)), 3-11-93)

State law reference(s)--Resisting officer in discharge of duty, MCL 750.479, MSA 28.747.

Sec. 54-27. Obstructing fire department.

(a) No person shall willfully obstruct, resist or hinder any member of the fire department on his way to any emergency call or alarm, or shall obstruct or resist any member of the fire department or other persons acting under the orders of the officer in charge of any emergency, while going upon any premises or extinguishing any fire.

(b) No person shall damage any hose, ladder, vehicle, engine or other fire department equipment whether in use at an emergency or not in use.

(c) No person at an emergency scene in which the fire department is involved shall disobey an order or direction given by any member of the fire department, or go upon any premises in disobedience to the order of the officer in charge, or resist or impede any member of the fire department, in the discharge of his duty.

(d) The fire chief, the officer in charge at a fire or other emergency, or a police officer may arrest any person who disobeys an order or who obstructs, resists or hinders any member of the fire department in the discharge of his duties.

(e) Any person who violates this section shall be guilty of a misdemeanor and shall be subject to the punishments prescribed in section 1-13.

(Code 1965, Sec. 3.12; Ord. No. 774, Sec. 1(3.10), 12-21-92)

State law reference(s)--Destruction of fire department property, MCL 750.377b, MSA 28.609(2).

Sec. 54-28. False summons of police or fire department.

No person shall summon, as a joke or prank or otherwise without any good reason therefore, by telephone or otherwise, the police or fire department or any public or private ambulance to go to any address where the service called for is not needed.

(Ord. No. 779, Sec. 1(42.01(c)(26)), 3-11-93)

State law reference(s)--False fire alarms, MCL 750.240, MSA 28.437.

Secs. 54-29--54-50. Reserved.

ARTICLE III. OFFENSES AGAINST THE PERSON

Sec. 54-51. Assault; assault and battery.

No person shall commit an assault or an assault and battery upon any person.

(Code 1965, Sec. 42.03)

State law reference(s)--Assault, MCL 750.81 et seq., MSA 28.276 et seq.

Sec. 54-52. Insulting, annoying other persons.

No person shall insult, accost, molest, or otherwise annoy, either by word of mouth, sign, or motion, any person in any public place.

(Ord. No. 779, Sec. 1(42.01(c)(9)), 3-11-93)

Sec. 54-53. Supervision of young children.

(a) No person who has the care, custody or supervision of a child under the age of ten years shall leave such child unattended in any dwelling.

(b) No person shall leave a child under the age of ten years unattended in a motor vehicle while the person frequents or loiters in or about any dance hall, poolroom, bowling alley, or any place where alcoholic beverages are sold or consumed.

(Ord. No. 779, Sec. 1(42.01(c)(12a), (12b)), 3-11-93)

Cross reference(s)--Parental responsibility, Sec. 54-221 et seq.; contributing to neglect or delinquency of children under the age of 17 years, Sec. 54-228.

Secs. 54-54--54-75. Reserved.

ARTICLE IV. OFFENSES AGAINST PROPERTY

Sec. 54-76. Petit larceny.

No person shall commit the offense of larceny by stealing of the property of another, any money, goods or chattels; any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate; any book of accounts for or concerning money or goods due or to become due, or to be delivered; any deed or writing containing a conveyance of land; any other valuable contract in force; any receipt, release or defeasance; or any writ, process or public record. If the property stolen is of the value of $100.00 or less, such person shall be guilty of a misdemeanor.

(Ord. No. 779, Sec. 1(42.01(c)(27)), 3-11-93)

State law reference(s)--Similar provisions, MCL 750.356, MSA 28.588.

Sec. 54-77. Unauthorized entry, damage of garden.

(a) No person shall enter any enclosed or unenclosed flower garden, vegetable garden or orchard without the consent of the owner or his agent.

(b) No person shall cut, damage, destroy, or carry away any growing thing or any water, seed, fertilizer, tool or implement, fence or other protection equipment, or other thing pertaining to the development, cultivation or maintenance of such garden or orchard without the consent of the owner or his agent.

(Ord. No. 779, Sec. 1(42.01(c)(21)), 3-11-93)

Sec. 54-78. Tampering with, destroying property; malicious mischief.

No person shall willfully destroy, remove, damage, alter or in any manner deface any property not his own, or any public school building, or any public building, bridge, fire hydrant, alarm box, street light, street sign, traffic control device, railroad sign or signal, parking meter, or shade tree belonging to the city or located in the public places of the city; mark or post handbills on, or in any manner mar the walls of, any public building, or fence, tree, or pole within the city; destroy, take or meddle with any property belonging to the city; remove the property from the building or place where it may be kept, placed or stored, without proper authority; or disturb, tamper with, disconnect or damage any city water meter without proper authority.

(Code 1965, Sec. 14.23(a); Ord. No. 779, Sec. 1(42.01(c)(8)), 3-11-93)

State law reference(s)--Malicious mischief, MCL 750.377 et seq., MSA 28.609 et seq.

Sec. 54-79. Dumping rubbish in public place.

No person shall place, deposit, dump, throw or spill any rubbish, tin cans, bottles, ashes, gravel, paper or garbage, or cause the same to be done, in or upon any street, sidewalk or other public place, or on the shore of or in any stream, pond or lake.

(Code 1965, Sec. 5.05; Ord. No. 779, Sec. 1(42.01(c)(24)), 3-11-93)

Sec. 54-80. Trespass upon lands or premises of another.

(a) It shall be unlawful for any person to trespass upon the land or premises of another by:

(1) Entering upon the lands or premises of another without lawful authority, after having been so forbidden to do so by the owner, occupant, agent or servant.

(2) Neglecting or refusing to depart from by the owner or occupant, or any agent or servant of the owner or occupant, the land or premises of another, upon being notified to depart therefrom by the owner or occupant, agent or servant of the owner or occupant.

(b) Notification shall include but not be limited to where the premises has been posted with a conspicuous notice forbidding any trespass thereon.

(Ord. No. 847, 8-18-97)

Secs. 54-81--54-100. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC PEACE

Sec. 54-101. Definitions.

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

Loitering means remaining idle in essentially one location and shall include the concept of spending time idly, loafing, or walking about aimlessly, and shall also include the colloquial expression hanging around.

(Ord. No. 763, Sec. 2, 5-1-92)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 54-102. Loitering.

No person shall, after being duly warned, loiter in a public place or place open to the general public in such a manner as to:

(1) Create or cause to be created, a danger of a breach of peace.

(2) Hinder or obstruct the free passage of pedestrians or vehicular traffic.

(3) Obstruct, molest, or interfere with a person causing him to fear for his safety.

(4) Disturb the comfort and repose of a person acting lawfully by such action as making unsolicited remarks of an offensive, disgusting, threatening, or insulting nature or which are calculated to annoy or disturb the person to whom made or in whose hearing they are made.

(Code 1965, Sec. 42.01; Ord. No. 763, Sec. 3, 5-1-92)

Sec. 54-103. Police to enforce prohibition against loitering.

Whenever such action or activity described in section 54-102 is taking place in a public place or place open to the general public, any police officer may order the person so acting to cease and to leave the premises or place.

(Ord. No. 763, Sec. 4, 5-1-92)

State law reference(s)--Certain loiterers deemed disorderly persons, MCL 750.167, MSA 28.364.

Sec. 54-104. Penalty for violation of section 54-102 or section 54-103.

A person who violates section 54-102 or section 54-103 shall be guilty of a misdemeanor and shall be subject to a fine of not less than $35.00 nor more than $500.00 or imprisonment for not more than 90 days, or both.

(Ord. No. 763, Sec. 5, 5-1-92)

Sec. 54-105. Consuming alcoholic liquor in public place.

(a) Except as otherwise provided in subsection (b), section 42-29 of the South Haven Code of Ordinances, or by resolution of the City Council, no persons shall consume or have in their possession, in an open container, any vinous; malt, brewed, fermented, spirituous, or alcoholic liquors in any street, alley, park, private property open to public use, or other public place within the city.

(b) Service and consumption of alcoholic beverages is permitted at outdoor sidewalk cafés possessing a special use permit and operating under an Outdoor Sidewalk Café Agreement approved by City Council as provided in the South Haven Zoning Ordinance. The Outdoor Sidewalk Café Agreement shall provide the terms and conditions for alcohol service.

(Code 1965, Sec. 42.04; Ord. No. 741, Sec. 1, 5-30-91; Ord. No. 1000, Sec. 2, 02-04-2013)

Sec. 54-106. Possession of alcoholic liquors by person under age 21; use of fraudulent identification.

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

(1) For the first violation a fine of not more than $100.00, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance

abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (4).

(2) For a violation of this subsection following a prior conviction or juvenile adjudication for a violation of this subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than 30 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than $200.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator 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 subsection (4).

(3) For a violation of this subsection following 2 or more prior convictions or juvenile adjudications for a violation of this subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than 60 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than $500.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator 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 subsection (4).

(b) A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (1) a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(c) When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of subsection (1) pleads guilty to a violation of subsection (1) or offers a plea of admission in a juvenile delinquency proceeding for a violation of subsection (1), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that include, but are not limited to, the sanctions set forth in subsection (1)(a), payment of the costs including minimum state cost as provided for in section 18m of chapter XIIA 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. Upon violation of a term or condition of probation or upon a finding that the

individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions or juvenile adjudications under subsection (1)(b) and (c). There may be only 1 discharge or dismissal under this subsection as to an individual. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. This record shall be furnished to any of the following:

(1) To a court, prosecutor, or police agency upon request for the purpose of determining if an individual has already utilized this subsection.

(2) To the department of corrections, a prosecutor, or a law enforcement agency, upon the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

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.

(d) The court may order the person convicted of violating subsection (1) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the public health code, 1978 PA 368, MCL 333.6103, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.

(e) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (1) or (2) as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

(f) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

(g) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection

(1) shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (1), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(h) 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.

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

(j) 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.

(k) 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.

(l) Subsection (1) does not apply to a minor who participates in either or both of the following:

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

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

(m) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (1), section 801(2), or section 701(1).

(n) In a criminal prosecution for the violation of subsection (1) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(o) As used in this section, “any bodily alcohol content” means either of the following:

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

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

(Code 1965, Sec. 42.13; Ord. No. 683, 5-5-86; Ord. No. 943, 06-05-06)

State law reference(s)--Possession of alcoholic liquors by person under age 21, MCL 436.33a, MSA 18.1004(1); use of fraudulent identification, MCL 436.33b, MSA 18.1004(2).

Sec. 54-107. Frequenting place of illegal sale of liquor.

No person shall attend, frequent or be an occupant or inmate of any place where the illegal sale of alcoholic liquor is permitted or conducted.

(Ord. No. 779, Sec. 1(42.01(c)(13)), 3-11-93)

Sec. 54-108. Fighting, quarreling.

No person shall engage in any disturbance, fight, or quarrel in a public place.

(Ord. No. 779, Sec. 1(42.01(c)(10)), 3-11-93)

Sec. 54-109. Gathering in crowd for mischievous or unlawful purpose.

No person shall collect or stand in crowds, or arrange, encourage or abet the collection of persons in crowds for illegal or mischievous purposes in any public place.

(Ord. No. 779, Sec. 1(42.01(c)(11)), 3-11-93)

Sec. 54-110. Disturbing the peace.

No person shall disturb the public peace and quiet by loud, boisterous or vulgar conduct.

(Code 1965, Sec. 42.02; Ord. No. 779, Sec. 1(42.01(c)(17)), 3-11-93)

State law reference(s)--Disturbing public places, MCL 750.170, MSA 28.367.

Sec. 54-111. Permitting noisy, boisterous conduct.

No person shall permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous, or disorderly persons.

(Ord. No. 779, Sec. 1(42.01(c)(18)), 3-11-93)

Sec. 54-112. Disturbing public businesses, places, meetings.

No person shall make or incite any disturbance or contention in any tavern, restaurant, store, grocery, drive-in business, manufacturing establishment; any other business place; any street lane, alley, highway, public building, grounds, or park; or at any election or other public meeting where persons are peaceably and lawfully assembled.

(Ord. No. 779, Sec. 1(42.01(c)(23)), 3-11-93)

State law reference(s)--Disturbance of religious worship, MCL 750.169, 752.525, MSA 28.133, 28.366; disturbing public places, MCL 750.170, MSA 28.367.

Sec. 54-113. Playing in streets, sidewalks or otherwise obstructing traffic.

No person shall play any ball game in any public street or sidewalk or otherwise obstruct traffic on any street or sidewalk by collecting in groups thereon, for any purpose.

(Code 1965, Sec. 42.08; Ord. No. 779, Sec. 1(42.01(c)(25)), 3-11-93)

Sec. 54-114. Disturbances at schools.

(a) No person shall willfully or maliciously make or assist in making any noise, disturbances or improper diversion by which the peace, quietude or good order of any public, private or parochial school is disturbed, whether such person be a student at such school or not.

(b) No person shall use profane, indecent or immoral language or engage in indecent or immoral conduct in any public, private or parochial school or the grounds thereto or on any property adjacent to any building occupied by any public, private or parochial school.

(c) No person shall by violence, threat of violence, coercion, intimidation, force, or attempt to force any public, private or parochial school student or other person to give or lend any money, property or other thing of value to any person.

(Code 1965, Sec. 42.23(b))

Sec. 54-115. Unauthorized entry upon school property.

No unauthorized person shall enter or remain in any school building or upon any school property whether public, private or parochial for any reason whatever unless such person has received written consent from the principal or such other person designated by the principal to be in any such public, private or parochial school building or upon such school property. An unauthorized person shall mean any person who is not a regularly enrolled student occupying the school premises during regular school hours, or who is not a parent or guardian of such student or who is not a business or social invitee, or is not a member of the teaching or administrative staff or employee of the school.

(Code 1965, Sec. 42.23(c))

Secs. 54-116--54-135. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS

Sec. 54-136. Indecent conduct.

No person shall engage in any indecent, insulting, or obscene conduct in any public place or within the public view.

(Code 1965, Sec. 42.07; Ord. No. 779, Sec. 1(42.01(1)(1)), 3-11-93)

State law reference(s)--Such person deemed a disorderly person, MCL 750.167(1)(f), MSA 28.364(1)(f).

Sec. 54-137. Reserved.

Editor's note--Ord. No. 830, Sec. 1, adopted Oct. 2, 1995, repealed Sec. 54-137, which pertained to nude swimming and derived from Code 1965, Sec. 42.09(b), and Ord. No. 779, Sec.1(42.01(c)(4)), adopted March 11, 1993.

Sec. 54-138. Use of obscene language.

No person shall use any obscene, indecent, immoral, or insulting language to, or in the presence or hearing of, any other person, or manifest any obscene, indecent or immoral behavior in the city in the presence, view or hearing of any other person.

(Ord. No. 779, Sec. 1(42.01(c)(5)), 3-11-93)

Sec. 54-139. Public nudity.

(a) For the purposes of this section, the following terms shall have the definitions ascribed to them in this subsection:

(1) "Nudity" shall mean the displaying by any individual of his or her genitals or anus with less than a fully opaque covering, or the displaying of a female individual's breast with less than a fully opaque covering of the nipple and areola; provided that a woman's breast feeding of a baby shall not be nudity whether or not the nipple is covered during or incidental to the feeding.

(2) "Public place" shall mean all buildings, theaters, auditoriums, stadiums, athletic grounds, bars, taverns, restaurants, rooms, dance halls, lounges and business or commercial establishments of any kind open to the public whether or not entrance is gained by the payment of an admission fee, and shall also mean all outside areas open to the general public including, but not limited to, public streets, alleys, parks, beaches, lakes and rivers within the jurisdiction of the city.

(b) No person shall knowingly or intentionally appear in a state of nudity in a public place; except that it shall not be unlawful for a person to appear in a state of nudity where such conduct is:

(1) Part of a theatrical or dramatic performance held in a theater or auditorium, entrance to which is gained by payment of an admission fee, and where such theatrical or dramatic performance or play is not otherwise visible to persons outside the theater or auditorium; or

(2) Part of, or done in connection with, an educational program or course conducted by an institution of higher education on property controlled by such institution in an area where such conduct is not visible to persons outside of the program or course.

(c) Each violation of subsection (b) of this section shall be punishable by a fine of not more than $500.00 or by imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment. In addition to the above penalties, any person convicted of any violation of subsection (b) shall reimburse the city for all costs and expenses incurred in relation to such conviction which costs and expenses shall be a debt of that person collectible by the city in the same manner as in the case of an obligation under a contract, express or implied.

(Code 1965, Sec. 42.09(a); Ord. No. 779, Sec. 1(42.01(c)(6)), 3-11-93; Ord. No. 830, Sec. 2, 10-2-95)

State law reference(s)--Indecent exposure, MCL 750.335a, MSA 28.567(1).

Sec. 54-140. Making, exhibiting obscene matter.

No person shall print, engrave, sell, offer for sale, give away, exhibit or publish any obscene, indecent or immoral book, pamphlet, paper, picture, cast statuary, image or representation.

(Code 1965, Sec. 42.10; Ord. No. 779, Sec. 1(42.01(c)(7)), 3-11-93)

Sec. 54-141. Solicitation of illegal act.

No person shall solicit or accost any person for the purpose of inducing the commission of any indecent, depraved or illegal act.

(Ord. No. 779, Sec. 1(42.01(c)(14)), 3-11-93)

Sec. 54-142. Transporting persons to place of gambling or prostitution.

No person shall knowingly transport any person to a place where prostitution or gambling is practiced, encouraged or allowed or any illegal, indecent or depraved act is practiced, encouraged or allowed.

(Code 1965, Sec.Sec. 42.06, 42.11; Ord. No. 779, Sec. 1(42.01(c)(15)), 3-11-93)

Sec. 54-143. Keeping gaming room, gaming table.

No person shall keep or maintain a gaming room, gaming table, gaming device, or any policy or pool tickets used for gaming; or knowingly suffer a gaming room, gaming table, gaming

device or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him.

(Code 1965, Sec. 42.06; Ord. No. 779, Sec. 1(42.01(c)(16)), 3-11-93)

State law reference(s)--Gambling, MCL 750.301 et seq., MSA 28.533 et seq.

Secs. 54-144--54-165. Reserved.

ARTICLE VII. OFFENSES AGAINST PUBLIC SAFETY

DIVISION 1. GENERALLY

Sec. 54-166. Throwing object at vehicle.

No person shall throw any object at any vehicle which is traveling, parked or standing in any public place.

(Ord. No. 779, Sec. 1(42.01(c)(2)), 3-11-93)

Sec. 54-167. Sale, possession and transportation of fireworks; permit for public display.

(a) No person shall explode, or cause to explode any firework as defined in the Michigan Fireworks Safety Act, Michigan Complied Laws 28.452(j) except on the day preceding, the day of, or the day after a national holiday. On the day preceding, the day of, or the day after a national holiday, no person shall explode or cause to explode any firework between the hours of 1 a.m. and 8 a.m.

(b) A person shall not ignite, discharge, or use consumer fireworks on property owned or controlled by the City of South Haven without permission granted by resolution of the City Council. Property owned or controlled by the City of South Haven includes but is not limited to public right of way, city beaches, parks, city facilities, municipal marinas, vacant land and industrial park property owned by the City or its authorities.

(c) The council may, upon application in writing on forms provided by the Michigan Department of Licensing and Regulatory Affairs and payment of a fee as set by resolution of city council, if any, grant a permit for the use of fireworks within the city, subject to the provisions of the Michigan Fireworks Safety Act. A permit granted under this subsection is not transferable and shall not be issued to a minor.

(d) A violation of this ordinance shall be subject to a civil infraction.

(Code 1965, Sec. 42.16; Ord. No. 1007, Sec. 1, 12-2-2013)

Secs. 54-168--54-180. Reserved.

DIVISION 2. WEAPONS

Sec. 54-181. Discharge of dangerous devices.

(a) *Prohibited activities.* No person shall discharge any dangerous device within the city limits except in compliance with the following definitions and regulations.

(b) *Definitions.* For purposes of this section, the following terms and phrases shall be defined as follows:

(1) "Arrow" means a wooden, aluminum, fiberglass, graphite (carbon) shaft, bolt or quill capable of being moved, propelled or shot by a bow or crossbow.

(2) "Bow" means a device for propelling an arrow from a string drawn, held and released by hand, including hand-held mechanical release devices, where the force used to hold the string in the drawn position is provided by the person's muscles.

(3) "Cross-bow" means a device consisting of a bow (limbs) mounted transversely on a stock or frame and designed to propel an arrow by the release of a string, which release is controlled by a mechanical or electric trigger.

(4) "Dangerous device" means including but is not limited to the following: arrows, bows, cross-bows, slingshots, and firearms.

(5) "Firearm" means a rifle, a shotgun, a revolver, a pistol, a pellet gun/pistol, a BB gun/pistol (except one having a smooth bore and capable of propelling BBs not exceeding .177 caliber), or any other device from which a projectile may be propelled by use of explosives, gas, air or spring.

(6) "Home target range" means a target range located on a parcel of private real property designed for the sole use of the owner or legal occupant of the property on which it is located and not used for commercial purposes.

(7) "Person" means an individual, firm, partnership, association, company, corporation, club or organization of any kind.

(8) "Commercial target range" means an area not fully enclosed in a permanent structure where dangerous devices are, or may be, discharged at a target or backstop for practice, sport, testing or otherwise.

(c) *Exemptions.* The limitations of this section shall not apply to the following:

(1) A person who discharges a dangerous device in the lawful defense of a person or property.

(2) The discharge of a dangerous device in a wholly enclosed structure which is windowless in the target area and which is designed and constructed to prevent any projectile from a dangerous device from penetrating the enclosure walls or exiting the target area.

(3) The discharge of a toy bow and arrow which is a bow having a draw weight of 18 pounds or less and an arrow having a rubber/plastic tip or a target point.

(4) The discharge of toy guns which propel only rubber, plastic or foam projectables by spring, air or mechanical means.

(5) The discharge of a dangerous device for the purpose of hunting or taking animals when in an area open to hunting and when done in accordance with all applicable state or federal laws and regulations.

(6) The discharge of a dangerous device by active members of any law enforcement or public safety agencies while in the discharge of their official duties.

(7) A target range as permitted in subsection (e).

(8) A home range target as permitted in subsection (f).

(9) Nothing in this section is intended to regulate or limit the rights of a person to possess or to carry dangerous devices within the city limits which are possessed and carried in compliance with state or federal laws, regulations and/or permits.

(d) *Commercial target range.* Unless established and operating on a consistent basis for a period of 60 days prior to the effective date of this section, no person shall conduct, maintain, operate, or hold open for operation any target range without first obtaining a license therefore pursuant to this section.

(1) *License application and initial review.* Upon receipt of a license application filed by the owner and/or operator of a proposed target range to be located within the city, which license application is on a form provided by the city for that purpose, and accompanied with any license fee required by the city for the processing of such an application, the application shall be referred to the chief of police and his appointed designees, for initial review and evaluation of the application in reference to the overall impact of the proposed target range on the health, safety and welfare of the citizens of the city including evaluation of the proposed project in reference to the following factors: size; location; anticipated hours of operation; use of surrounding properties; safety features, including but not necessarily limited to backstops or other methods of containing discharged projectiles; conformance with all applicable federal, state, and local health, fire and safety ordinances or codes; comments from any adjoining landowner or occupant within 150 feet of a proposed target range; lighting; and rules of operation including, but not necessarily limited to, the number of individuals allowed to use the target range at any one time and required use of personal safety equipment.

(2) The chief of police shall, within 14 calendar days of their receipt of a target range application, forward a report to the planning commission detailing their review of each target range application. The planning commission shall then schedule a public hearing regarding each target range application, at which time public comment shall be heard. The planning commission shall consider all public comment, the reports prepared and presented by the chief of police and any applicable provisions of the zoning ordinance and master plan. The planning commission shall vote to approve, approve with conditions, or deny the application or table the application if the planning commission requires additional information regarding the proposed target range.

(e) *Home target range.* A home target range shall meet the following requirements:

(1) Only the following dangerous devices may be discharged at a home target range: bows, cross-bows, pellet guns/pistols and BB guns/pistols.

(2) The home target range shall have and maintain a backstop or other safety feature designed and constructed and maintained to contain all projectiles discharged from the allowed dangerous device used on or at the home target range, which backstop or safety feature is located so that if any projectiles discharged from the dangerous device miss or are not contained by the backstop or safety feature, such projectiles will not leave the boundaries of the real property on which the home target range is located.

(f) *Penalty.* Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 42.21; Ord. No. 833, Sec. 2, 11-20-95)

State law reference(s)--Similar provisions, MCL 752.a863, MSA 28.436(24).

Secs. 54-182--54-200. Reserved.

ARTICLE VIII. OFFENSES INVOLVING MINORS

DIVISION 1. GENERALLY

Sec. 54-201. Minors in pool halls.

No person who operates any billiard table, pool table or pool room for profit within the city shall permit any minor under the age of 18 upon the premises unless he is accompanied by a parent or guardian.

(Code 1965, Sec. 42.14)

Secs. 54-202--54-210. Reserved.

DIVISION 2. CURFEW

Secs. 54-211--54-220. Reserved.

DIVISION 3. PARENTAL RESPONSIBILITY*

***Cross reference(s)--**Supervision of young children, Sec. 54-53.

Sec. 54-221. Penalties for violation of division.

(a) The penalty for the first violation of the provisions of this division by any minor person may be no more than the detention provided in section 54-226. The parent or guardian or any

person having authorized custody of, or the employer of the minor, upon being ascertained, shall be notified by the police department of the violation by the minor person and summoned to report for completion of the investigation of the violation. Upon the second and subsequent violations of the provisions of this division by any minor person, the matter shall be referred to the juvenile authorities of Van Buren County or Allegan County for disposition.

(b) Violation of section 54-223 shall be punishable by a fine of not less than $50.00 nor more than $500.00 and/or imprisonment not to exceed 90 days.

(Ord. No. 762, Sec. 6, 5-1-92)

Sec. 54-222. Hours.

It shall be unlawful for any minor person under the age of 16 years to be or remain in or upon any street, alley, playground, public place, place of amusement or other unsupervised place, in the city between the hours of 11:00 p.m. and 6:00 a.m., Michigan Standard Time. The provisions of this section do not apply to a minor accompanied by his parent, grandparent, guardian, sibling of at least 18 years of age, or responsible adult over the age of 21 years, or when the minor is in the performance of an errand or duty directed in writing by his parent or other person having his care or custody; where the employment of the minor makes it necessary that the minor is upon any street, alley, playground, public place, place of amusement, or other unsupervised place during the nighttime after the specified hours; or if the minor is returning directly home from attending an organized community or social event for the attendance of which the minor shall have received permission in writing from his parent, grandparent, guardian or other person having custody of the minor.

(Code 1965, Sec. 42.22; Ord. No. 762, Sec. 1, 5-1-92; Ord. No. 920, 8-4-03)

State law reference(s)--Similar provisions, MCL 722.752, MSA 28.342(2).

Sec. 54-223. Responsibility of parent or guardian to enforce curfew.

It shall be unlawful for any parent, guardian or other person having the legal care and custody of a minor under the age of 16 years to allow or permit any such minor to go or be upon any street, alley, playground, public place, place of amusement, or other unsupervised place between the hours set forth in section 54-122. The provisions of this section do not apply to a minor accompanied by his parent, grandparent, guardian, or responsible adult over 21 years; where the employment of the minor makes it necessary that the minor is upon any street, alley, playground, public place, place of amusement, or other unsupervised place during the nighttime after the specified hours; or if the minor is returning directly home from attending an organized community or social event for the attendance of which the minor shall have received permission in writing from his parent, guardian or other person having custody of the minor

(Code 1965, Sec. 42.22; Ord. No. 762, Sec. 2, 5-1-92; Ord. No. 920, 8-4-03)

Sec. 54-224. Ignorance of minor's whereabouts no defense.

It shall not constitute a defense to a complaint charging a violation of section 54-223 that the parent, guardian, or other person having the legal care and custody of a minor who violates any provision of this division did not have knowledge of the presence of the minor in and upon

any street, alley, playground, public place, place of amusement, or other unsupervised place prohibited in section 54-223.

(Ord. No. 762, Sec. 3, 5-1-92)

Sec. 54-225. Business owners prohibited to allow minors to violate curfew hours on their premises.

It shall be unlawful for the operator of any theater, restaurant, or other business establishment, either by himself or by any employee or agent, to permit any such minor to be or remain in such business establishment in violation of section 54-223.

(Ord. No. 762, Sec. 4, 5-1-92)

Sec. 54-226. Police duties.

It shall be the duty of each member of the police department to enforce the provisions of this division, and each member of the police department is hereby authorized to question any person suspected of violating any of the provisions of this division and to take into custody and detain any minor person so found to be violating this division and thereupon to take, or cause to be taken, the minor person to the city police department headquarters, whereupon the name of the parent, guardian or other person having authorized custody, or the employers, of the minor person shall be ascertained. Upon determination, such parent, guardian, or other person having authorized custody of the minor person shall be notified or summoned by the investigating officer or member of the police department to appear at the police department headquarters to complete an investigation and assume custody of the minor person. If the parent, guardian, or person having authorized custody of the minor person cannot be located within a reasonable time, the officer shall notify the county juvenile authorities to cause the proper proceedings to be had and taken, as authorized by the laws of the state.

(Code 1965, Sec. 42.22; Ord. No. 762, Sec. 5, 5-1-92)

Sec. 54-227. Notice warning.

Whenever any minor shall be taken into custody by the police, as provided in section 54-226, written notice shall be given immediately, or as soon thereafter as may be possible, to any parent, guardian, or other person having legal care or custody of such minor, in the form provided in this section. Such notice shall be substantially in the following form:

Warning Notice

To _____
You are notified on the _____ day of _____ 20_____ at _____ o'clock _____.m. a minor child under 16 years of age, named _____ for whom you are responsible was taken into custody for being in violation of section 54-222 of the Code of Ordinances of the City of South Haven, a portion of which is printed on the back of this notice.

You are further notified that you are charged in the future with the responsibility for compliance by said minor with the provisions of said ordinance. Failure to do so will subject you to the penalty therein provided.

Police Department of the City of South Haven

By _____

A synopsis of sections 54-222 and 54-223 shall be printed on the back of every such notice with a form for proof of service of a copy thereof.

(Ord. No. 762, Sec. 6, 5-1-92)

Sec. 54-228. Contributing to neglect or delinquency of children under the age of 17 years.

Any parent, legal guardian or other person having the care or custody of a minor child under the age of 17, who shall, by any act or by any word, by the failure to act, or by lack of supervision and control of the minor child, encourage, contribute toward, cause or tend to cause the minor child to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court as defined in section 2 of Act No. 54 of the Public Acts of Michigan of the First Extra Session of 1944 (MCL 712A.1 et seq., MSA 27.3178(598.1) et seq.), as amended, whether or not such child shall, in fact, be adjudicated a ward of the probate court, shall be guilty of a misdemeanor.

(Code 1965, Sec. 42.22)

Cross reference(s)--Supervision of young children, Sec. 54-53.

State law reference(s)--Similar provisions, MCL 750.145, MSA 28.340.

Secs. 54-229--54-240. Reserved.

DIVISION 4. OPEN HOUSE PARTIES*

***Cross reference(s)--**Property used in connection with controlled substances declared a nuisance, Sec. 30-61 et seq.

Sec. 54-241. Definitions.

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

Alcoholic liquor means any alcoholic beverage, beer, wine, spirits or alcohol, as defined in section 2 of Act No. 8 of the Public Acts of Michigan of 1933 Ex. Sess. (MCL 436.2, MSA 18.972), as amended.

Control means the authority to regulate, direct, superintend or govern, or the authority to exercise restraining or dominating influence over, including a possessory right over, property.

Controlled substance means a drug, substance or immediate precursor in schedules 1 to 5 of Part 72 of the state public health code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7101 et seq., MSA 14.15(7101) et seq.), as amended.

Minor means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to section 33b of Act No. 8 of the Public Acts of Michigan of 1933 Ex. Sess. (MCL 436.33b, MSA 18.1004(2)), as amended.

Open house party means a social gathering of persons at a rental facility or residence other than the owner or renter and their immediate family members.

Rental facility means a hall, auditorium, social, fraternal or service club, and includes other similar type private clubs or organizations, whether occupied on a temporary or permanent basis, and whether owned, leased, or used without compensation.

Residence or premises means a house, apartment, condominium, motel room, hotel room or other dwelling unit including the curtilage and land around the dwelling unit to the extent the land is subject to the control of the same person having control of the dwelling unit, whether owned, leased, or used without compensation.

(Ord. No. 770, Sec. 2, 10-1-92)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 54-242. Penalty for violation of division.

A person who violates this division shall be guilty of a misdemeanor and shall be subject to the penalties prescribed in section 1-13.

(Ord. No. 770, Sec. 5, 10-1-92)

Sec. 54-243. Controller of residence responsible for illegal possession by minors of alcoholic beverages or controlled substances.

It shall be unlawful for any person having control of any residence or rental facility to allow an open house party to take place, or continue once it has begun, if such person knows or reasonably should know that any controlled substance is unlawfully used or possessed by any person, or that any alcoholic beverage is illegally possessed or consumed by any minor, at such house party.

(Ord. No. 770, Sec. 3, 10-1-92)

Sec. 54-244. Exceptions.

The provisions of this division shall not apply to legally protected religious observances or legally protected educational activities.

(Ord. No. 770, Sec. 4, 10-1-92)

Chapters 55—57

RESERVED

Chapter 58

PARKS AND RECREATION*

***Cross reference(s)--**Administration, ch. 2; community development, ch. 22; environment, ch. 30; harbors and waterways, ch. 38; planning, ch. 62; traffic and vehicles, ch. 82.

State law reference(s)--Authority to operate recreation areas and playgrounds, MCL 123.51 et seq., MSA 5.2421 et seq.

Article I. In General

Sec. 58-1. Liability of city.
Sec. 58-2. Additions to the City Park System
Secs. 58-3--58-25. Reserved.

Article II. Parks Administration

Division 1. Generally

Secs. 58-26--58-35. Reserved.

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Sec. 58-37. Membership.
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Division 3. Liberty Hyde Bailey Park Board

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Sec. 58-94. Fishing in Riverbend Park.
Sec. 58-95. Loading and unloading of boats and equipment at Riverbend Park.
Sec. 58-96. Storage of boats or trailers in Riverbend Park.
Sec. 58-97. Swimming in Lake Michigan.
Sec. 58-98. Breaking glass containers on Lake Michigan.
Sec. 58-99. Restrictions on placement or resting of water vehicles.
Sec. 58-100. Fuel or similar substances prohibited.
Sec. 58-101. Diving, jumping from or swimming near the South Haven Lake Michigan piers prohibited.

ARTICLE I. IN GENERAL

Sec. 58-1. Liability of city.

This chapter shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by or on city parks or waterway property as a result of any persons violating the rules as set forth in this chapter.

(Code 1965, Sec. 8.15)

Sec. 58-2. Additions to the City Park System

(a) In addition to the City parks established in the City Charter, the following properties are also designated as City parks:

1. Black River Park Addition Phase 1
   Commencing at the East Quarter post of Section 3, Town 1 South, Range 17 West; thence North 88°59'17" West on the East and West Quarter line 1232.98 feet; thence North 31°04'26" West 2.80 feet to the place of beginning of this description; thence North 61°16'20" West 16.41 feet; thence North 79°59'29" West 57.14 feet; thence North 77°33'33" West 63.55 feet; thence North 00°51'13" East 19.00 feet; thence North 89°46'52" West 174.78 feet; thence South 01°11'31" West 20.11 feet; thence North 89°56'56" West 204.95 feet; thence North 03°18'52" West 20.02 feet; thence South 89°49'43" West 91.59 feet; thence North 00°53'39" East 58.86 feet to a point on an intermediate traverse line along the Black River; thence along said traverse line the following courses: South 89°19'28" East 387.40 feet; North 85°27'37" East 127.99 feet and South 79°48'42" East 115.44 feet to the end of said traverse line; thence South 14°16'39" West 98.00 feet to the place of beginning, together with all land lying between said intermediate traverse line and the Black River.

2. Black River Park Addition Phase 2
   Situated in the City of South Haven, Van Buren County, Michigan
   Commencing at the East Quarter post of Section 3, Town 1 South, Range 17 West; thence North 88° 59' 17" West on the East and West Quarter line 870.88 feet to the place of beginning of this description; thence South 43° 33' 38" West on the Northerly line of Dunkley Avenue, 40.00 feet; thence North 75° 05' 45" West 18.61 feet; thence North 16° 35' 36" West 47.73 feet; thence North 00° 54' 42" East 61.50 feet; thence North 89° 05' 18" West 200.50 feet; thence South 57° 54' 55" West 48.56 feet; thence South 32.00 feet; thence South 72° 51' 18" West 66.62 feet; thence North 14° 16' 39" East 98.00 feet to a point on an intermediate traverse line along the Black River; thence along said traverse line the following courses: North 79° 21' 03" East 64.54 feet and South 88° 55' 12" East 257.22 feet to the end of said traverse line; thence South 00° 46' 43" West 110.50 feet to the East and West Quarter line; thence South 88° 59' 17" East on same, 20.22 feet to the place of beginning, together with all land lying between said intermediate traverse line and the Black River. 0.48 Ac.

3. Liberty Hyde Bailey Park
   Commencing at the southwest corner of Section 11, Town 1 south, Range 17 west, thence north on the west section line of Section 11 1097.63 feet to the point of beginning, thence north 88 28"26" east parallel to the south line of the north 1/2 of

the southwest 1/4 of the southwest 1/4 of Section 11 430.00 feet, thence north parallel with the west section line of Section 11 311.70 feet, thence south 88 28"26" west 244.00 feet to the west section line of Section 11, thence south along the west section line of Section 11 120 feet to the point of beginning, subject to easements and road rights-of-way of record.

(b) The City retains the right to lease the buildings and property for uses permitted in the zoning district in which it is located on specific terms and conditions that the City Council approves.

(Ord. No. 968, Sec. 1, 05-04-09; Ord. No. 973, Sec. 1, 08-03-09; Ord. No. 1015, Sec 1, 01-05-2015)

Sec. 58-3. Additions to South Beach.

(a) The following properties are designated as part of South Beach and are subject to the same restrictions as the land designated in Section 1.1(12) of the City Charter:

(1) A strip of land 78 feet in width North and South off the North side of Block 5, Jay R. Monroe Subdivision of Block 49 and Chestnut Street.

Commonly known as: 552 Monroe Blvd., South Haven, MI 49090

Tax Parcel No.: 80-53-184-050-00

(2) The South 62 feet of the North 140 feet of Block 5, J. R. Monroe Subdivision of the City of South Haven.

Commonly known as: 556 Monroe Blvd., South Haven, MI 49090

Tax Parcel No.: 80-53-184-051-00

(3) Commencing on the West side of Monroe Boulevard 51.35 feet Northerly of the Northwest corner of Clinton Street and Monroe Boulevard, thence West to Lake Michigan, thence North 50 feet, thence East to Monroe Boulevard, thence Southerly to beginning, Original Village Plat, Block 49.

Commonly known as: 560 Monroe Blvd., South Haven, MI 49090

Tax Parcel No.: 80-53-184-052-00

(4) The South 50 feet wide of Block 5 of Jay R. Monroe Subdivision of Bock 49 and Chestnut Street.

Commonly known as: 568 Monroe Blvd., South Haven, MI 49090

Tax Parcel No.: 80-53-184-053-00

(Ord. No. 1025, Sec. 1, 01-28-2016)

Secs. 58-4--58-25. Reserved.

ARTICLE II. PARKS ADMINISTRATION

DIVISION 1. GENERALLY

Secs. 58-26--58-35. Reserved.

DIVISION 2. PARKS COMMISSION*

***Cross reference(s)--**Administration, ch. 2; cemeteries, ch. 18.

Sec. 58-36. Creation.

A parks and cemetery commission is established, to be called the parks commission.

(Code 1965, Sec. 8.01; Ord. No. 747, Sec. 1, 11-28-91)

Sec. 58-37. Membership.

The parks commission shall be comprised of seven members, six of whom shall be appointed by city council from the citizenry, and one member from the city council. All members of the parks commission shall serve without compensation.

(Code 1965, Sec. 8.02; Ord. No. 747, Sec. 1, 11-28-91)

Sec. 58-38. Terms.

The term of each appointed citizen member shall be for three years or until their successor takes office, except that upon creation of the commission, two members shall be appointed for one year and two shall be appointed for two years. The absence of any member of the parks commission for three consecutive meetings without a reasonable and valid excuse shall create a vacancy.

(Ord. No. 747, Sec. 1, 11-28-91)

Sec. 58-39. Officers.

The parks commission shall elect annually a chairperson and vice-chairperson from among its membership. The terms of these officers shall be for one year, with eligibility for re-election. The chairperson shall preside over the meetings, ensure that printed records are kept, and serve as the ex officio member of any and all topic committees that may be created from time to time. The vice-chairperson shall perform the duties of the chairperson of the parks commission during the absence or disability of the chairperson.

(Ord. No. 747, Sec. 1, 11-28-91)

Sec. 58-40. Meetings.

The parks commission shall meet on a monthly basis. Regular meetings of the parks commission shall be set each calendar year and posted in appropriate places to inform the community of the regular meeting dates.

(Ord. No. 747, Sec. 1, 11-28-91)

Sec. 58-41. Duties.

(a) It shall be the duty of the parks commission to make recommendations to the city manager and/or parks superintendent and public officials of the city for the operation, maintenance, caretaking, rehabilitation, and capital expenditures for the city park facilities and property, including playgrounds, beaches, and other recreational facilities as follows:

(1) South Beach. Consisting of that publicly owned beach frontage west of Monroe Boulevard from South Haven Street to the South Harbor Line.

(2) North Beach. Consisting of beach frontage from the north line of Avery Street to the North Harbor Line west of Lake Shore Drive.

(3) Stanley Johnston Park. Consisting of property abounded by Dyckman Avenue, Park Avenue, and Black River Street.

(4) Monroe Playground. Consisting of the area abounded by St. Joseph Street, Monroe Boulevard, Monroe Street and South Haven Street.

(5) Elkenburg Park. Consisting of public property located within Elkenburg Street, Kalamazoo Street, Humphrey Street and Indiana Avenue.

(6) Tot Lot. Consisting of that property owned by the cemetery at the corner of Wilson and Bailey.

(7) Ravinia Park. As platted.

(8) Hartman Park. As platted.

(9) Packard Park. As platted.

(10) Dyckman Park. Located between Phoenix Street and Huron Street at the city parking lot.

(11) All street frontages which are used or could be used for pedestrian access to the beaches such as the end of Lake Court, Apache Court, Chippewa Court, Woodman Street, Dyckman Avenue, Oak Street and Newcome Street.

(12) That section of Black River Park that is not utilized for boat-related purposes and is under the jurisdiction of the city council through the harbor commission.

(13) That parcel of land lying between Water Street and the Black River from South Beach to the Administration Building of the Municipal Marina, including the former Coast Guard Station property.

(14) Such other areas as are from time to time purchased and/or designated as park land by the city council, except that the parks commission shall not have jurisdiction over Liberty Hyde Bailey Park.

(b) On a yearly basis, the parks commission shall review the annual budget for the parks department and recommend to the city council approval of the budget.

(c) The parks commission shall review and recommend to the city council all development plans and rehabilitation of facilities at the city's parks. The parks commission shall, when requested by the city council, assist the administration in the oversight of the development of approved projects.

(d) The parks commission shall prepare and submit to the city manager, for inclusion in the annual five-year capital improvement plan, its annual five-year capital improvement plan proposals with respect to city-owned park land.

(e) The parks commission shall make recommendations to the city manager for the management of park properties within the city. It shall review and recommend to the city manager and city council rules for the use of city-owned parks and structures.

(f) The parks commission shall also act as the cemetery board of trustees, as specified within section 18-5 et seq.

(Code 1965, Sec. 8.04; Ord. No. 747, Sec. 1, 11-28-91; Ord. No. 1015, Sec. 1, 01-05-2015)

Secs. 58-42--58-50. Reserved.

DIVISION 3. LIBERTY HYDE BAILEY PARK BOARD

Secs. 58-51---58-59. Repealed.

(Ord. No. 1015, Sec. 2, 01-05-2015)

Secs. 58-60--58-80. Reserved.

ARTICLE III. PUBLIC PARKS

Sec. 58-81. Closing hours.

(a) Unless otherwise provided, the public parks of the city shall be open to the public only between sunrise in the morning and 10:00 p.m. of each day, except for Riverfront Park which shall be open from sunrise in the morning until 11:00 p.m. nightly. Planned activities under the direct supervision of city personnel or sanctioned by the city council may be exempt from the closing hours. No person, except those in charge of the parks, shall enter or be therein while such parks are closed to the public.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 8.05; Ord. No. 766, Sec. 1, 6-11-92; Ord. No. 816, Sec. 14, 2-6-95)

Sec. 58-82. Damage.

No person shall break, cut, mutilate, overturn, injure, remove or carry away any tree, shrub, flower, plant, stone, stonework, bench, chair, seat, bower, playground equipment, structure, or anything whatever in or from any park or street or avenue adjacent thereto. No person shall climb into or upon any tree, table or structure in any park, nor kill, destroy or molest

any bird, bird's nest, animal or fish within or belonging to any park. No person shall paste, affix or inscribe any handbills, signs, posters, cord devices or inscriptions to, upon, or against any tree, structure or property of or in any park, or the streets adjacent thereto nor disfigure or injure any sward, walk, turf, or earth in a park.

(Code 1965, Sec. 8.06)

Sec. 58-83. Prohibited activities.

No person or organization shall do any of the following activities in a park without the written consent of the city manager. The person or organization may appeal the city manager's decision to the city council should they feel the need to do so.

(1) Carry or use air rifles or slingshots or discharge any fireworks or explosive devices of any nature.

(2) Erect any structure.

(3) Canvass, advertise, solicit, vend or rent any service, merchandise or object of any kind, except as allowed by City Ordinance Section 14-44.1, et seq.

(4) For any gatherings in excess of 500 people, chapter 42 of this Code shall apply.

(5) Consume or have in their possession, in an open or closed container, any vinous; malt, brewed, fermented, spirituous, or alcoholic liquors.

(8) Use any facility, land or area for which a fee or charge has been established by the city council without payment of such fee or charge.

(9) Fail to display or affix a valid permit in the manner established by the city council when entering or using a facility, land or area requiring such a permit.

(Code 1965, Sec. 8.07; Ord. No. 747, Sec. 1, 11-28-91; Ord. No. 967, Sec. 1, 05-04-09; Ord. No. 976, Sec. 1, 11-16-09; Ord. No. 991, 05-16-2011)

Sec. 58-84. Bicycle use.

No person shall ride a bicycle in a park, except over paths and roads designated for such use. No person shall park a bicycle in a park except in designated areas.

(Code 1965, Sec. 8.08)

Sec. 58-85. Animals.

(a) No person shall permit any animal to run at large within the public parks, nor allow any dog therein except when led by a leash. No animal shall be led or ridden onto any portion of a sand beach of a public park. Sand beach shall mean that portion of lake, river or other water frontage not surfaced for street or sidewalk use.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 8.09; Ord. No. 816, Sec. 15, 2-6-95)

Cross reference(s)--Animals, ch. 6.

Sec. 58-86. Operation of vehicles.

(a) No person shall operate any motor vehicle in a park in such manner as to create a noise nuisance.

(b) No person shall drive a vehicle in a park at a speed unsafe for conditions or in excess of the posted speed limit.

(c) No person shall drive or park a vehicle anywhere except on established drives and parking areas.

(d) No person shall use a park drive for the purpose of demonstrating, teaching the driving of, or learning to drive, any vehicle.

(e) No person shall tow another vehicle on a park drive except in case of breakdown in the park.

(f) No person shall drive or operate a vehicle used solely for commercial purposes unless upon park business.

(g) No person other than a city employee in the course of his employment shall operate any motor vehicle on any portion of the sand beach of a public park. Sand beach shall mean that portion of lake frontage not surfaced for street or sidewalk use.

(Code 1965, Sec. 8.10)

Sec. 58-87. Operation of vessels in swimming areas.

No person shall operate any vessel in a specifically designated and/or buoyed swimming area or in a manner which endangers swimmers. Such vessels shall include, but not be limited to, powered watercraft, personal watercraft, paddleboats, and/or sailboats. No person shall use any park or city property as a base for operating such vessels for hire except as provided under contract with the city.

(Code 1965, Sec. 8.12(f))

Sec. 58-88. Leaving or storing of boats or other property on public beaches or their parking lots.

(a) Except as noted in this section, no person shall leave overnight or store any personal property or any vessel, whether motorized or not motorized, on the North Beach, South Beach or any other public beach, park or their related parking lots in the city. Any vessels or other

personal property left on the city beaches or parks will be deemed abandoned and may be removed by the city. The owners shall pay removal and towing charges as well as storage charges in order to redeem the property. Removal, towing and storage charges shall be based on the cost to the city for removal. The city manager shall be authorized to allow nonmotorized boats and other personal property to be stored overnight on the city's beaches during regattas and other special boating events.

(b) In addition to any other remedies set forth in this section, any person who shall violate any of the provisions of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 8.12(e); Ord. No. 696, Sec. 1, 8-27-87; Ord. No. 816, Sec. 16, 2-6-95)

Sec. 58-89. Closing hours of beaches.

(a) The North Beach and South Beach in the city and their bordering parking lots shall be closed from 11:00 p.m. to daylight to public gatherings, including beach parties, reunions, festivals and all other events. All other municipal beaches and parking lots shall be closed from 10:00 p.m. to daylight.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 8.12(b); Ord. No. 669, Sec. 1, 5-20-85; Ord. No. 816, Sec. 17, 2-6-95; Ord. No. 900, 6-17-02)

Sec. 58-90. Closing of public beaches.

The chief of police has the authority to close any public beach at any time he determines it necessary for the preservation of the public peace, health or safety.

(Ord. No. 669, Sec. 2, 5-20-85)

Sec. 58-91. Swimming in Black River.

Swimming or wading with the exception of launching a boat, is prohibited in that part of the Black River from both the North and South Pier Heads and the upriver to the corporate limits of the City.

(Code 1965, Sec. 42.15(a); Ord. No. 865, Sec. 1, 9-8-98)

Sec. 58-92. Use of water skis, surfboards, saucers on Black River.

No person shall use water skis, surfboards, saucers, or other similar devices on the Black River.

(Code 1965, Sec. 8.12(g))

Sec. 58-93. Exceeding slow-no wake speed on Black River waters.

On the waters of the Black River and the entrance channel from the east city limits downstream to the westerly end of the entrance channel, it shall be unlawful for the operator of a vessel to exceed a slow-no wake speed.

(Code 1965, Sec. 8.121)

Sec. 58-94. Fishing in Riverbend Park.

(a) No person shall fish from city-owned docks or piers in Riverbend Park. No person shall process or clean fish on any docks, piers, benches or in such a manner as to leave any residual smell, odor, stain or other obnoxious trace in Riverbend Park.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 8.12(c); Ord. No. 816, Sec. 18, 2-6-95)

Sec. 58-95. Loading and unloading of boats and equipment at Riverbend Park.

(a) No person shall be allowed more than 15 minutes in which to unload or load any vessel, whether motorized or nonmotorized, at a city-owned ramp in River Bend Park. This time includes obstruction of a ramp with a motor vehicle and/or trailer. No person shall occupy a city-owned public boat slip for more than 15 minutes in which to load or unload equipment.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 8.12(d); Ord. No. 816, Sec. 19, 2-6-95)

Sec. 58-96. Storage of boats or trailers in Riverbend Park.

(a) No person shall park or store any boat or trailer, or cradle or shoring, on land in Riverbend Park in excess of 48 hours. Any boat so stored and/or parked may be removed by the city. The owner shall pay removal or towing charges and storage charges in order to redeem the property. Removal charges shall be based on the cost to the city of removal.

(b) In addition to any other remedies set forth in this section, any person who shall violate any of the provisions of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 8.12(e); Ord. No. 816, Sec. 20, 2-6-95)

Sec. 58-97. Swimming in Lake Michigan.

Swimming or wading in Lake Michigan shall be permitted except when prohibited by order of the council.

(Code 1965, Sec. 8.12(a))

Sec. 58-98. Breaking glass containers on Lake Michigan.

(a) No person shall break glass containers of any kind on the public beaches of Lake Michigan. Signs designating the fact that such breaking is prohibited shall be erected on the beaches.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 8.12(h); Ord. No. 816, Sec. 21, 2-6-95)

Sec. 58-99. Restrictions on placement or resting of water vehicles.

No person shall use any park, beach or other city property to place or rest any motorized water craft, boat, or similar motorized water vehicle except for a portion of the beach to be designated at the end of South Haven Street Beach Access commencing a 25-foot length. All motorized personal water craft, boats, or similar motorized vehicles utilizing the aforementioned resting sites shall be regulated by the same hours of operation of the parks, as amended by city council.

(Ord. No. 808, Sec. 1, 5-2-94)

Sec. 58-100. Fuel or similar substances prohibited.

No person shall take onto any beach, park or city property any fuel or similar substance used for any type of motorized vehicle.

(Ord. No. 808, Sec. 2, 5-2-94)

Sec. 58-101 Diving, jumping from or swimming near the South Haven Lake Michigan piers prohibited.

It shall be unlawful for any person to dive or jump from a South Haven Lake Michigan pier. It shall be unlawful for any person to swim within fifty feet (50') from a South Haven Lake Michigan Pier. It shall be unlawful for any person to push, shove, or cause any person to fall, dive or jump from any portion of a pier into Lake Michigan or the Black River.

For a first offense a code enforcement officer or law enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of this section. The person shall pay within 30 days from the date a citation was issued a civil penalty of $50 to the City of South Haven, Civil Infractions Bureau, 539 Phoenix Street, South Haven, Michigan 49090 in full satisfaction of the violation. A second offense occurring within 90 days from the occurrence of a first offense, shall be a criminal misdemeanor, punishable by a fine not to exceed $500 or 90 days in jail, or both.

(Ord. No. 963, Sec. 1, 05-19-08)

Chapters 59—61

RESERVED

Chapter 62

PLANNING*

***Cross reference(s)--**Administration, ch. 2; buildings and building regulations, ch. 10; businesses, ch. 14; community development, ch. 22; environment, ch. 30; fire prevention and protection, ch. 34; harbors and waterways, ch. 42; parks and recreation, ch. 58; streets, sidewalks and other public places, ch. 74; subdivisions, ch. 78; traffic and vehicles, ch. 82; utilities, ch. 86.

State law reference(s)--Authority to regulate land use, MCL 125.581 et seq., MSA 5.2931 et seq.; municipal planning, MCL 125.31 et seq., MSA 5.2991 et seq.

Article I. In General

Secs. 62-1--62-25. Reserved.

Article II. Planning Commission

Sec. 62-26. Creation.
Sec. 62-27. Membership; appointment; terms.
Sec. 62-28. Composition of commission.
Sec. 62-29. Chairman; meetings; rules.
Sec. 62-30. Removal.
Sec. 62-31. Employees; expenditures.
Sec. 62-32. Duties and functions.
Sec. 62-33. Powers.
Sec. 62-34. Adoption of master plan.
Sec. 62-35. Improvements in conformity with master plan; submission for approval.
Sec. 62-36. Rescinding authorized improvements.
Sec. 62-37. Approval of subdivision plats.
Sec. 62-38. Programs for institution of master plan.

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ARTICLE I. IN GENERAL

Secs. 62-1--62-25. Reserved.

ARTICLE II. PLANNING COMMISSION*

***Cross reference(s)--**Administration, ch. 2.

Sec. 62-26. Creation.

A city planning commission is hereby created under and pursuant to Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq., MSA 5.2991 et seq.), as amended.

(Code 1965, Sec. 21.01(a))

Sec. 62-27. Membership; appointment; terms.

The planning commission will consist of nine members, one of whom shall be a member of the council to be selected by resolution of the council to serve as a member ex officio, and eight of whom shall be appointed by the mayor, as provided in section 62-28, but an appointment shall always be subject to the approval by a majority vote of the members-elect of the council. An appointed member shall not hold another municipal office, except that one of the appointed members may be a member of the zoning board of appeals. The term of the ex officio member shall be determined by the council and shall be stated in the resolution selecting the ex officio member, but the term shall not exceed the member's term of office as a council member. The term of each appointed member shall be three years or until his successor takes office. All ex officio members appointed under this section shall have full voting rights.

(Code 1965, Sec. 21.01(b); Ord. No. 727, Sec. 1, 11-30-89)

Sec. 62-28. Composition of commission.

Eight members of the planning commission shall represent, insofar as is possible, different professions or occupations, and shall be appointed by the mayor, but an appointment shall always be subject to the approval by a majority vote of the members-elect of the city council.

(Code 1965, Sec. 21.01(b); Ord. No. 727, Sec. 2, 11-30-89)

Sec. 62-29. Chairman; meetings; rules.

The planning commission shall elect its chairman from the appointed members and create and fill such other of its offices as it may determine. The term of chairman shall be one year, with eligibility for reelection. The planning commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, finding and determinations, which shall be a public record.

(Code 1965, Sec. 21.01(c))

Sec. 62-30. Removal.

After public hearing, a member other than the member selected by the council may be removed from office by the mayor for inefficiency, neglect of duty, or malfeasance in office. The council may for like cause remove the member selected by the council.

(Code 1965, Sec. 21.01(b); Ord. No. 727, Sec. 1, 11-30-89)

Sec. 62-31. Employees; expenditures.

The planning commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provision of law as govern other corresponding civil employees of this city. The planning commission may also contract with city planners, engineers, architects and other consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the council, which shall provide for funds, equipment and accommodations necessary for the planning commission's work.

(Code 1965, Sec. 21.01(d))

Sec. 62-32. Duties and functions.

(a) *Make and adopt master plan.* It shall be the function and duty of the planning commission to make and adopt a master plan for the physical development of the city including any areas outside of its boundaries which, in the planning commission's judgment, bear relation to the planning of the city and the adjacent areas. Such plan with the accompanying maps, plats, charts and descriptive matter shall show the planning commission's recommendations for the development of such territory, including, among other things, the general location, character and extent of streets, viaducts, subways, bridges, waterways, waterfronts, boulevards, parkways, playgrounds and open spaces; the general location of public buildings and other public property; and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or terminals; and the general location, character, layout and extent of community centers and neighborhood units.

(b) *Recommendation of zoning ordinance.* It shall also be the duty of the planning commission to recommend to the council a zoning ordinance of the city, including a zoning plan for all lands and territory which may be added to the city hereafter from time to time, for the control of the height, area, bulk, location and use of buildings and premises, to carry out proper city planning. A public hearing shall always be held by the planning commission before a zoning plan or supplements thereto are recommended to the council.

(c) *Publish parts of proposed master plan; make studies and surveys.* The planning commission may from time to time adopt and publish a part or parts of the proposed master plan, any such part to cover one or more major sections or divisions of the city or one or more of the aforesaid or other functional matters to be included in the plan. In the preparation of such plan, the planning commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the city and with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs

which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements.

(Code 1965, Sec. 21.02)

Sec. 62-33. Powers.

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

(b) In general, the planning commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this chapter.

(Code 1965, Sec. 21.06)

Sec. 62-34. Adoption of master plan.

(a) *Method.* The planning commission may adopt the master plan of the city, including any areas outside of its boundaries which in the commission's judgment bear relation to the planning of the city, as a whole by a single resolution or may, by successive resolutions, adopt successive parts corresponding with major geographical sections or divisions of the municipality and surrounding areas or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto.

(b) *Public hearings; majority vote.* Before the adoption of the plan or any such part, amendment, extension or addition, the planning commission shall hold at least one public hearing thereof, notice of the time and place of which shall be given not less than 15 days prior to such hearing, by one publication in a newspaper of general circulation in the city, and by registered United States mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the geographical sections or divisions of

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

(Code 1965, Sec. 21.03)

Sec. 62-35. Improvements in conformity with master plan; submission for approval.

Whenever the planning commission shall have adopted the master plan of the city or of one or more major sections or districts thereof, no street, square, park or other public way, ground or open space or public building or structure shall be constructed or authorized in the city or in such planned section and district until the location, character and extent thereof shall have been submitted to and approved by the planning commission. In case of disapproval, the planning commission shall communicate its reasons to the council which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership. If, however, the public way, ground, space, building, structure or utility be one, the authorization or financing of which does not, under the law or Charter provisions governing the same, fall within the province of the council, then the submission to the planning commission shall be by the board, commission or body having such jurisdiction, and the planning commission's disapproval may be overruled by the board, commission or body by a vote of not less than two-thirds of its membership. The failure of the planning commission to take final action within 60 days from and after the date of official submission to it shall be deemed approval.

(Code 1965, Sec. 21.04)

Sec. 62-36. Rescinding authorized improvements.

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

(Code 1965, Sec. 21.05)

Sec. 62-37. Approval of subdivision plats.

(a) *Filing, recording of plats.* Whenever the planning commission shall have adopted a master plan relating to the major street system of the territory within its subdivision jurisdiction or part thereof and shall have filed a certified copy of such plan in the office of the county register of deeds, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by such planning commission and such approval

entered in writing on the plat by the chairman or secretary of the planning commission. Before exercising the powers referred to in this section, the planning commission shall adopt regulations governing the subdivision of land within its jurisdiction.

(b) *Sixty-day limit for approval, disapproval or modification.* The planning commission shall approve, modify or disapprove a plat within 60 days after the submission thereof to it; otherwise, such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the planning commission on demand; provided, however, that the applicant for the planning commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the planning commission.

(c) *Notice, hearing.* Any plat submitted to the planning commission shall contain the name and address of a person to whom notice of a hearing shall be sent, and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the address by registered mail of the time and place of such hearing not less than five days before the date fixed therefore. Similar notice shall be mailed to the owners of land immediately adjoining the platted land, as their names appear upon the records of the city or as their addresses appear in the directory of the city or on the tax records of the city.

(d) *Approval deemed amendment to city plan.* Every plat approved by the planning commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the municipal plan and a part thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat.

(e) *Recommendation of amendments to council.* The planning commission may, from time to time, recommend to the council amendment of the zoning regulations or map, or additions thereto, to conform to the planning commission's recommendations for the zoning regulations of the territory comprised within approved subdivisions.

(f) *Power to authorize requirements or restrictions submitted by applicant.* The planning commission shall have the power to agree with the applicant upon the use, height, area or bulk requirement or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of this chapter. Such requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof, shall have the same force of law, be enforceable in the same manner with the same sanctions and penalties, and subject to the same power of amendment or repeal as though set out as part of the zoning regulations or map.

(Code 1965, Sec. 21.07)

Cross reference(s)--Procedure for plat approval, Sec. 78-4.

Sec. 62-38. Programs for institution of master plan.

For the purpose of furthering the desirable future development of the city and adjacent areas under the master plan, the planning commission, after the adoption of the master plan, may prepare coordinated and comprehensive programs of public structure and improvements, which shall be accompanied by a program for the financing thereof. The planning commission shall annually prepare such a program for the ensuing six years, which program shall show

those public structures and improvements in the general order of their priority which, in the planning commission's judgment, will be needed or desirable and can be financed and undertaken within the six-year period. The comprehensive coordinated program shall be based upon the requirements of the city and the adjacent areas related thereto in the master plan for all types of public improvements. To that end, each agency or department, or governmental unit concerned with such improvements shall upon request furnish the planning commission with lists, plans and estimates of time and cost of public improvements within the purview of such agency, department or governmental unit.

(Code 1965, Sec. 21.08)

Chapters 63—65

RESERVED

Chapter 66

SECONDHAND GOODS*

***Cross reference(s)--**Businesses, ch. 14.

State law reference(s)--Junkyard near highways, MCL 252.201 et seq., MSA 9.391(11) et seq.; licensing of pawnbrokers, MCL 445.471 et seq., 446.201 et seq., MSA 19.581 et seq., 19.740(1) et seq.; licensing of secondhand and junk dealers, MCL 445.401 et seq., 445.471 et seq., MSA 19.711 et seq., 19.740(1) et seq.

Sec. 66-1. License required.
Sec. 66-2. Application for license; bond.
Sec. 66-3. License fee.
Sec. 66-4. Lending prohibited by licensee.
Sec. 66-5. Record of licensee purchases.
Sec. 66-6. Removal of goods from city.
Sec. 66-7. Purchases from minors, drunkards, thieves, receivers of stolen goods or associates.

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Sec. 66-1. License required.

No person shall engage in the business of dealing in secondhand goods or keep what is commonly called a junkyard for the purchase and sale of secondhand goods, metals, rubber, rags, old rope, papers, bagging, empty bottles, old automobiles sold for junk and parts thereof, or any other kind of junk, or use or cause to be used any vehicle on the streets, alleys, or public places of the city for the purpose of collecting or disposing of such articles without first obtaining a license and a license plate therefore from the city.

(Code 1965, Sec. 32.01)

Sec. 66-2. Application for license; bond.

Any person desiring a license under this chapter shall make written application over his signature for a license from the city manager. The application shall state, in detail, the location and the nature of the business in which the applicant proposes to engage, the name and age of the applicant, and the experience, if any, of the applicant in the business. Each application shall also be accompanied by a bond in the sum of $200.00, with two or more sureties to be approved by the council conditioned that he will faithfully observe the provisions of the ordinances of the city.

(Code 1965, Sec. 32.02)

Sec. 66-3. License fee.

The fee for a license under this chapter is $25.00 per year and an additional $5.00 for each vehicle used in collecting junk and other materials.

(Code 1965, Sec. 32.03)

Sec. 66-4. Lending prohibited by licensee.

No licensee under this chapter shall receive in the course of his business any article by the way of pledge or pawn, nor shall he loan or advance any sum of money on the security of any article or thing unless specially licensed so to do.

(Code 1965, Sec. 32.04)

Sec. 66-5. Record of licensee purchases.

Every licensee under this chapter shall, on demand, exhibit all goods bought or received and give the description of the person selling the goods to the chief of police, any policeman, or any other peace officer, and shall keep a book containing a list of all persons from whom goods were purchased.

(Code 1965, Sec. 32.05)

Sec. 66-6. Removal of goods from city.

No licensee under this chapter shall remove or cause to be removed from the city any article purchased until at least 96 hours have elapsed after such purchase.

(Code 1965, Sec. 32.06)

Sec. 66-7. Purchases from minors, drunkards, thieves, receivers of stolen goods or associates.

No licensee under this chapter shall purchase anything from any person under the age of 16 years, unless accompanied by a written permit of the parent or guardian consenting thereto, which permit shall specify the article or goods to be sold. No such licensee shall purchase anything from any intoxicated person or from an habitual drunkard, from any person known by him to be a thief or an associate of thieves, a receiver of stolen goods, or from any person whom he has reason to suspect of being such.

(Code 1965, Sec. 32.07)

Chapters 67—69

RESERVED

Chapter 70 SOLID WASTE*

***Cross reference(s)--**Environment, ch. 34; utilities, ch. 86.

State law reference(s)--Solid waste management act, MCL 299.401 et seq., MSA 13.29(1) et seq.; hazardous waste management act, MCL 299.501 et seq., MSA 13.30(1) et seq.; waste minimization act, MCL 299.731 et seq., MSA 13.30(131) et seq.; low-level radioactive waste authority act, MCL 333.26201 et seq., MSA 14.528(362) et seq.

Article I. In General

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ARTICLE I. IN GENERAL

Sec. 70-1. Definitions.

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

Animal offal means meat scraps, bones or other wastes resulting from the processing of meat and shall include dead animals to be processed for their commercial value.

Business, commercial establishment or institution means and includes any building or structure or premises not defined as a residence.

Commercial garbage means any garbage produced by a business, commercial establishment or institution.

Garbage means all putrescible wastes from kitchens, pantries, dining rooms, or other parts of hotels, restaurants, boardinghouses, tenement houses, dwelling houses, markets, butcher shops, poultry houses, produce houses, factories, and any other place where meats, fish, fowls, fruits, or vegetables are prepared for food for immediate consumption and all household waste containing organic matter that shall have been prepared for or intended to be used as food or shall have resulted from the preparation of food, or such other worthless offensive matter the accumulation of which may create a nuisance or be deleterious to public health or offense to sight or smell.

Premises means land, buildings, or other structures, or parts thereof, upon or in which refuse is stored or accumulated.

Refuse means all putrescible and nonputrescible solid wastes, including garbage, animal offal, rubbish, ashes, dead animals, fallen trees, tree limbs, yard clippings, grass cuttings, yard cleanings, and solid market and industrial wastes, but not including body wastes, automobile frames or debris resulting from construction, reconstruction or repairs of premises.

Residence means any building or structure used solely as a family domicile including single-family and multifamily dwelling units, apartments, roominghouses and boardinghouses. Residence shall not include hotels, tourist courts, motels, motor courts, motor hotels, trailer courts or apartment hotels.

Residential refuse means any refuse, garbage, or trash produced by a family domicile including single-family and multifamily dwelling units, apartments, roominghouses and boardinghouses.

Trash means nonputrescible solid wastes such as cinders, ashes, waste paper, excelsior, rags, wooden boxes or cardboard or paper boxes, bottles, broken ware, tin cans, metal scraps, small mechanical parts, shavings, floor sweepings (excluding dirt floors), and all other things of a similar nature. The term "trash"" as used in this chapter shall not include debris resulting from construction, reconstruction, or repairs of premises, automobile frames, fallen trees, tree limbs, yard clippings, grass cuttings, yard cleanings, nor other waste matter that is not properly contained as specified in this chapter.

(Code 1965, Sec. 13.01; Ord. No. 730, Sec. 1, 12-28-89)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 70-2. Enforcement.

(a) *Generally.* The code enforcement officer or his authorized representative, in order to protect the health and safety of the people of the city is authorized and directed to implement and enforce the provisions of this chapter and is hereby given the exclusive control of the collection and disposal of refuse within the city.

(b) *Specifically.* It shall be the duty of any police officer or the code enforcement officer on the information of the county health department sanitarian, or other city officials, to enforce the terms of this chapter through the issuance of a complaint.

(Code 1965, Sec.Sec. 13.02, 13.22)

Sec. 70-3. Violation penalties.

Any person who violates any provisions of this chapter shall be guilty of a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Ord. No. 816, Sec. 22, 2-6-95)

Secs. 70-4--70-25. Reserved.

ARTICLE II. CONTAINERS

Sec. 70-26. Garbage containers.

Each owner, occupant, tenant or lessee, using or occupying any building, house, structure, or grounds within the corporate limits of the city where garbage accumulates, shall provide watertight containers for garbage of not less than three nor more than 30 gallons capacity each, constructed of galvanized metal material or of material equal to or better than galvanized metal, with a tightfitting lid or cover of the same material, and with handles sufficiently strong for workmen to empty conveniently. No container, with contents, shall weigh more than 75 pounds. Residential garbage must be drained of all liquids and sacked or wrapped in paper before the parcel is placed in garbage cans or containers. The can or container shall be maintained in a sanitary condition and shall be thoroughly cleaned as needed.

(Code 1965, Sec. 13.03)

Sec. 70-27. Trash containers.

In addition to the receptacles specified for garbage, each owner, occupant, tenant, or lessee, using or occupying any building, house, structure, or grounds within the corporate limits of the city, shall provide receptacles for holding trash as set forth in this section.

(1) Each residence may use the same containers for trash as those specified for garbage in section 70-26.

(2) Each business or commercial establishment where the volume of trash accumulated cannot be conveniently handled in cans shall provide bins or boxes or other approved facilities for the storage of trash. Such bins or boxes shall be constructed of incombustible material and must have self-closing covers. Boxes and bins shall be maintained in a sanitary manner.

(3) All large trash such as boxes, cartons and crates shall be collapsed before being placed in containers. All loose paper must be bundled and tied when placed for collection. Ashes shall not be placed in the same receptacle with any inflammable substance. Explosives, poisons, acids, caustics and infected materials from sick rooms, clinics and hospitals shall not be placed in the same container with other refuse, but shall be placed in a separate tightly covered can painted yellow, so as to designate the contents and make clear to the collector that special precautions are required. No other cans shall be painted yellow.

(4) Debris resulting from the construction, reconstruction or repairs of premises shall not be placed with other refuse for collection, but shall be disposed of directly by the person owning, occupying or leasing the premises wherein such debris is accumulated, by taking the debris to the city-operated landfill, if such a facility is available to the public, or by disposing of the debris through the services of a private hauler.

(5) It shall be unlawful for any person to dump or deposit or cause to be dumped or deposited any garbage in boxes or bins designed for trash. This will be construed to include paper, as well as glass or metal containers, which have been saturated with or still contain organic wastes that may attract insects or rodents, or generate noxious or offensive gases or odors.

(Code 1965, Sec. 13.05)

Sec. 70-28. Lids and covers of refuse containers.

The lids or covers of containers shall at all times be kept secure so that flies and other insects may not have access to the contents thereof, and such lids or covers shall only be removed while the containers and receptacles are being filled, emptied or cleaned.

(Code 1965, Sec. 13.06)

Sec. 70-29. Placement of cans.

(a) The storage of garbage, refuse or debris shall be prohibited in any parkway for a period exceeding twenty-four (24) hours preceding a regularly scheduled garbage pickup day. The containers that are used to house materials such as garbage, refuse or debris shall also be prohibited in any parkway for a period exceeding 24 hours following a regularly scheduled garbage pick-up day.

(b) The storage of garbage, refuse or debris or containers that house these items shall not be placed at any time as to restrict egress from an exit door or beneath a fire escape.

(Code 1965, Sec. 13.07; Ord. No. 795, Sec. 2, 11-15-93)

Sec. 70-30. Use of plastic bags for garbage.

Each owner, occupant, tenant or lessee using or occupying any building, house, structure, or grounds within the corporate limits of the city where garbage accumulates shall have the alternative of using plastic-type garbage bags of good quality of at least two mil tensile strength securely tied at the top to prevent spillage.

(Code 1965, Sec. 13.04)

Sec. 70-31. Reserved.

Editor's note--Ord. No. 795, Sec. 3, adopted Nov. 15, 1993, repealed Sec. 70-31, which pertained to placement of plastic garbage bags and derived from Code 1965, Sec. 13.08.

(Code 1965, Sec. 13.08)

Sec. 70-32. Refuse bins.

(a) The following words, when used in this section, shall for the purposes of this section have the meanings ascribed to them in this subsection:

Refuse bins means those refuse receptacles designed to be transported by or mechanically emptied into a refuse collection vehicle and does not include receptacles used in office buildings, businesses and single-family dwellings, which are less than 20-gallon capacity.

Substandard refuse bins means those refuse bins which do not meet the stability requirements established in subsection (c) of this section.

(b) All persons owning, leasing or using substandard refuse bins or permitting the placing of such substandard refuse bins on private property within their custody or control are hereby required to ensure the modification or retrofitting of such substandard refuse bins or, in the alternative, removal of such bins from areas of public access.

(c) From and after the dates established in this section, each refuse bin shall be:

(1) Reasonably secured at all times in some manner to a stake, fence, wall or other stationary object in a manner to prevent its tipping over;

(2) Enclosed within a fence or barrier at least four feet high with an access gate which is kept locked or otherwise reasonably protected from unauthorized access; or

(3) Designed, constructed or modified so that it will not tip when subjected to 191 pounds hanging vertically from the leading edge thereof or to a pull force of 70 pounds exerted horizontally from any edge thereof.

(d) No person shall rent, lease, place upon the property of another, or permit to remain upon property within his custody or control any refuse bin which is not secured or protected from unauthorized access or which does not meet the stability requirements established in

subsection (c) of this section in the immediate vicinity of a school or schoolyard or elsewhere in the city to which the public has access.

(Code 1965, Sec. 13.21)

Sec. 70-33. Reserved.

Editor's note--Ord. No. 795, Sec. 3, adopted Nov. 15, 1993, repealed Sec. 70-33, which pertained to placement of trash boxes or bins and derived from Code 1965, Sec. 13.09.

Sec. 70-34. Inspection of garbage and trash receptacles.

Provisions shall be made for regular inspections by the code enforcement officer to secure compliance with this article with reference to receptacles for garbage and trash. Notifications of violations shall be given by the code enforcement officer or his authorized representative, to the owner or occupants of the property upon which violations occur. The notifications shall consist of tagging the defective containers, boxes or bins with red tags marked condemned and with the violation indicated on the tag. If necessary action to remedy a violation as set forth in this section is not taken within 15 days, the city shall have the right to remove the defective container, boxes or bins from the premises on which they are located, destroy or dispose of them and to collect from the owner the costs and expenses of removing and disposing of the same.

(Code 1965, Sec. 13.10)

Sec. 70-35. Depositing garbage or trash in other than authorized containers prohibited.

The owner, occupant, tenant or lessee of any premises within the city shall be responsible for the sanitary condition of the premises occupied by him, and it shall be unlawful for any person to keep in or about any premises occupied by him any garbage, trash, or animal offal unless the same is kept in authorized container or storage facilities, or for any person to bury or deposit or cause to be buried, dumped or deposited upon any street, alley, gutter, park or other public place or to throw or deposit the same in or upon any vacant lot, back yard or ravine any garbage, trash, or refuse of any kind whatsoever.

(Code 1965, Sec. 13.12)

Sec. 70-36. Use of containers.

It shall be unlawful for any owner, occupant, tenant, or lessee, using or occupying a building, structure or other premises as a separate unit to utilize the garbage or trash containers or receptacles of any other owner, occupant, tenant or lessee for the disposal of his own garbage or trash.

(Code 1965, Sec. 13.18)

Sec. 70-37. Public trash receptacles.

It shall be unlawful to deposit residential or commercial refuse, garbage or trash in any trash can, container or bin set out for the sole use of the public by the city.

(Ord. No. 730, Sec. 2, 12-28-89)

Secs. 70-38--70-60. Reserved.

ARTICLE III. COLLECTION AND DISPOSAL

Sec. 70-61. Scope of service provided by the city.

The city through its private contract hauler will pick up, transport, and dispose of all garbage and rubbish, from all one-family and two-family dwelling units in the city. Such pickups shall be made at least once each week; provided, however, that for each such one-family residence, or for each unit of such two-family dwelling, the contract hauler need pick up no more than two receptacles. Each receptacle shall not exceed 30 gallons in capacity as indicated in section 70-26; and provided further that the receptacles shall be at the curb nearest the dwelling unit to be serviced.

(Code 1965, Sec. 13.14)

Sec. 70-62. Curbside depositing of garbage, trash or refuse by authorized persons only.

It shall be unlawful for residential or commercial refuse, garbage or trash to be set out at the curb for residential pickup by anyone other than the owner, renter, occupant or authorized agent of the residential property.

(Ord. No. 730, Sec. 3, 12-28-89)

Sec. 70-63. City pickup of trash and refuse.

City forces will provide a pickup of trash and refuse, other than garbage, from all residences in the city the first week of each month. If the first day of the month falls on a day other than Monday, then the pickup will start on the Monday of the following week. In no case shall the householder or occupant place trash and rubbish on the parkway until the week of the pickup by city forces. The parkways will remain free of trash and rubbish until the week of the pickup.

(Code 1965, Sec. 13.13)

Sec. 70-64. Trash and refuse from business and commercial establishments and institutions.

It shall be the responsibility of the owner, occupant, tenant, or lessee of any business, commercial establishment or institution to arrange for the collection and disposal of any and all trash and refuse generated in their operations.

(Code 1965, Sec. 13.15)

Sec. 70-65. Collection days.

The days for collection of garbage, trash and refuse throughout the city shall be designated by the city manager.

(Code 1965, Sec. 13.11)

Sec. 70-66. Refuse collection and dump fees.

Garbage and refuse collection fees and dump use fees shall be established by the city council of the city if required in the future.

(Code 1965, Sec. 13.19)

Sec. 70-67. Compulsory removal; lien.

(a) Whenever any person owning or controlling any house, shop, residence, establishment, place of business or habitation within the city shall suffer garbage to be thrown, left or deposited in or upon the premises under his control, other than in the proper receptacles as provided in this chapter, then the city may, at its own expense, remove the garbage from the premises, and the costs for such removal shall be assessed against the property specially benefited by such removal.

(b) Furthermore, the city shall have a right to execute and file a lien against the property for any and all delinquent assessments and foreclose such lien in the manner provided by statute for foreclosure of street improvement liens.

(Code 1965, Sec. 13.20)

Sec. 70-68. Scavengers or cardboard collectors.

(a) It shall be unlawful for any person not authorized by the owner of any refuse container, and contents thereof, or for any person not authorized by the owners of any bagged or loose refuse deposited on the parkway for the pickup by commercial pickup or city pickup to collect or disturb such refuse, without the authorization of the owner.

(b) No person shall remove any refuse from a container and scatter the refuse upon a public alley, street or sidewalk. No person who shall transport any refuse over the streets or alleys of the city shall permit such refuse, or any part thereof, to fall from the vehicle and remain upon any street, alley or sidewalk within the city.

(Code 1965, Sec. 13.17)

Sec. 70-69. Repealed.

Chapters 71

RESERVED

Chapter 72

SPECIAL ASSESSMENTS

Sec. 72-1. Applicability.
Sec. 72-2. Public Improvement Costs.
Sec. 72-3. Filing of petition for improvement, contents.
Sec. 72-4. Determination by council; survey and report.
Sec. 72-5. Resolution to proceed; designation of district; hearing; notices.
Sec. 72-6. Resolution authorizing improvement; restriction.
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*__Editor's note__-Authorization for inclusion of Ord. No. 833A, adopted November 20, 1995, as Ch. 72 of this Code was provided by Ord. No. 853, Sec. 1, adopted Feb. 2, 1998.

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Sec. 72-1. Applicability.

The making and financing of public improvements by the special assessment method shall be governed by this chapter. All proceedings therefore shall be taken in accordance with the provisions of this chapter, unless a specific provision of a state statute shall require a different procedure in which case the state statute shall govern.

(Ord. No. 833A, Sec. 1, 11-20-95)

Sec. 72-2. Public Improvements; costs.

The term “public improvement,” as used in this chapter, shall include the reconstruction in whole or in part of any structure or work as well as the original construction thereof. The cost of surveys, plans and specifications of a public improvement and all expenses incident to the proceedings for the making of such improvement, the making and collecting of the special assessment therefore and the issuance of bonds in anticipation of such special assessments shall be deemed a part of the cost of said improvement. Whenever any property is acquired by condemnation or otherwise for the purpose of any public improvement, the cost thereof, exclusive of that part of such cost representing damages for injury to improvements to such property and the cost of the proceedings required to acquire such property, may be added as a part of the cost of such improvements. No contract or expenditure, except for the cost of preparing necessary legal or financial consultations and engineering plans and estimates, shall be made for the improvement until special assessments to defray the cost of the same shall have been levied, unless the owners of all of the property in the assessment district petition for the public improvement proposed to be made. Any assessment may be made upon the basis of the estimated cost of the improvement if the actual cost has not been definitely determined.

(Ord. No. 833A, Sec. 2, 11-20-95)

Sec. 72-3. Filing of petition for improvement; contents.

A petition addressed to the Council may be filed with the City Clerk requesting the Council to make a public improvement therein described and to assess the cost thereof, or such part of the cost as the Council shall decide, to benefited lands comprising a special assessment district to be determined by the Council. Any petition so filed shall be on forms approved by the City Manager and shall be signed by the owners of lands having at least fifty percent (50%) of the privately owned frontage abutting upon the proposed improvement. The City Clerk shall not present to the Council any petition not so signed. A purchaser on land contract shall be deemed the owner of such land. Such petition, in addition to the signatures of the owners shall contain a brief description of the property owned, and the printed or typewritten names of the respective signers thereof. The genuineness of the signatures on each petition or part thereof shall be verified by the affidavit of the circulator. Any such petition shall not be mandatory upon the Council, but shall be advisory only, and in no event shall such petition be deemed jurisdictional.

(Ord. No. 833A, Sec. 3, 11-20-95)

Sec. 72-4. Determination by Council; survey and report.

Irrespective of whether or not such a petition shall have been filed, the Council may determine to make any public improvement and to defray any part of the cost thereof by special assessment of lands benefited or to be benefited thereby.

Before any other action shall be taken thereon, the Council shall refer the matter to the City Manager, who shall make and submit to the Council a survey and report setting forth the need for such improvement, the desirable extent and probable cost thereof, the portion of the cost to be borne by the City at large and the portion to be assessed to benefited lands and the lands to constitute the special assessment district to be so assessed. The City Manager shall also prepare or cause to be prepared the plans for such improvement and shall submit the same to the Council, and file a copy with the City Clerk for public inspection.

(Ord. No. 833A, Sec. 4, 11-20-95)

Sec. 72-5. Resolution to proceed; designation of district; hearing; notices.

If the Council shall desire to proceed with the improvements, it shall so declare by resolution and shall designate the special assessment district, what part of the cost of said improvement shall be paid by special assessments against the lots and parcels of land in said special assessment district and what part, if any, shall be paid from the general funds of the City. The Council shall also fix a time and place when it will meet and hear any objections to such improvement and to the special assessment district, at which all person within the proposed special assessment district therefore or who own property therein may be heard. The Council shall cause notice of such hearing to be given by publication thereof in a newspaper of general circulation within the City and also by mailing a copy of such notice to each person owning any land in the special assessment district in the manner and form required by t MCL 211.741, et seq., as amended. Such notice shall state that the plans and cost estimate are on file with the City Clerk, shall contain a brief description of the proposed improvement and special assessment district and notify property owners that appearance and protest at the hearing is required in order to appeal the amount of the special assessment to the State Tax Tribunal. At the time of such hearing, or any adjournment thereof, which may be without further notice, the Council shall hear any objections to such improvement and to the special assessment district and, without further notice, may revise, correct, amend or change the plans, estimate and/or district, provided that no property shall be added to the district until notice is given as above provided or by personal service upon the owners thereof, and a hearing afforded such owners.

(Ord. No. 833A, Sec. 5, 11-20-95)

Sec. 72-6. Resolution authorizing improvement; restriction.

After the hearing provided for in the preceding section, if the Council desires to proceed with such improvement, it shall adopt a resolution approving the plans and cost estimates as originally presented or as revised, corrected, amended or changed, determine the necessity to proceed with the proposed public improvement, determine the probable life of the improvement; fix the special assessment district therefore and order the Assessor to prepare a special assessment roll. Provided, however, that if prior to the adoption of the resolution authorizing the making of the public improvement written objections have been filed by the owner of property in the district, which according to the estimates, will be required to bear more than fifty percent (50%) of the cost thereof, no resolution determining to proceed with the improvement shall be adopted, except by the affirmative vote of five (5) members of the Council.

(Ord. No. 833A, Sec. 6, 11-20-95)

Sec. 72-7. Additional procedures.

In any case where this ordinance proves insufficient to carry in to full effect the making of any special assessment, the City Council shall provide, in the resolution authorizing the improvement as required in Section 6, any additional steps or procedures which the Council deems necessary or proper to the completion of a particular special assessment project.

(Ord. No. 833A, Sec. 7, 11-20-95)

Sec. 72-8. Special assessment roll.

The City Assessor shall thereupon prepare the special assessment roll in which shall be entered and described all the lots and parcels of land to be assessed, with the names of the respective owners thereof, if known, and the amount to be assessed against each such lot or parcel of land, which amount shall be such relative portion of the whole sum to be levied against all the lots and parcels of land in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits of all lots and parcels of land in the special assessment district. There shall also be entered upon said roll the amount which has been assessed to the City at large. When the City Assessor shall have completed the assessment roll, he shall file the same with the office of the City Clerk after first having affixed thereto a certificate stating that it was made pursuant to a resolution of the Council of said City adopted on a specified date and that in making such assessment rolls, according to the Assessor's best judgment, conforms in all respects to the directions contained in such resolution and to the Charter of the City.

(Ord. No. 833A, Sec. 8, 11-20-95)

Sec. 72-9. Meeting/hearing on the special assessment roll; notice and objections.

(a) Upon receipt of the special assessment roll, the City Clerk shall present the assessment roll to the City Council which shall by resolution order it filed with the office of the City Clerk for public examination, shall fix the time, date and place when the City Council shall meet and conduct a public hearing for purposes of hearing objections and of reviewing and acting upon such roll, and shall direct the City Clerk to give notice of such meeting and hearing.

(b) Such notice shall state that the special assessment roll is on file with the City Clerk for public examination and shall contain all other information required under 1962 PA 162, as amended, (MCL 211.741, et seq.). Such notice shall be given in the manner provided under 1962 PA 162, as amended. The City Clerk shall also cause such notice to be published once in a newspaper of general circulation in the City not less than ten (10) days prior to the date of the meeting and hearing. The City Clerk shall make, obtain and retain in the City's records an affidavit of mailing and proof of publication showing that notice was given and published as required. The meeting and hearing required under this section may be adjourned by the City Council from time to time without further notice. In the event of any failure to give notice as provided in this section, the provisions of Section 4 of 1962 PA 162, as amended, shall apply.

(c) An owner or a party in interest in real property affected by the assessment roll, or any agent of such person, may present that person's objections to the assessment roll, specifying the reasons for such objections, by appearing in person at the public hearing or by filing with the City Clerk prior to the close of the hearing a written appearance and objection to the assessment roll. The City Clerk shall keep a record of all those persons who have appeared and objected as provided above.

(d) The City Council shall meet at the time, date and place designated, and at such meeting, or at proper adjournment of such meeting, shall conduct the public hearing for persons to present objections, and shall review and act upon the assessment roll. The City Council by resolution may confirm the assessment roll or may correct the roll as to any special assessment, any description of land or any other errors appearing in such roll and confirm it as corrected. The City Council may also, by resolution, annual the assessment roll and direct that a new roll be prepared, in which case Sections 72-8 and 72-9 shall be followed with respect to such new assessment roll.

(e) If, after hearing all objections and making a record of such changes as the City Council deems justified, the City Council is satisfied with the Assessment roll as submitted by the assessor or as corrected by it, the City Council shall pass a resolution confirming such roll. The City Clerk shall endorse the date of confirmation on such assessment roll. Upon such confirmation, the special assessment roll and all assessments contained in it shall be final and conclusive for the purpose of the improvement to which it applies, subject only to adjustment as provided in Sections 79-15 and 19-17.

(Ord. No. 833A, Sec. 9, 11-20-95; Ord. No. 853, Sec. 2, 2-2-98)

Sec. 72-10. Resolution confirming roll; installment payments.

In the resolution confirming the roll, the Council shall fix the date upon which the special assessment, or the first installment thereof if installment payments are allowed, shall be due and payable; the number of annual installments [not exceeding fifteen (15)] in which the special assessment may be paid; and the rate of interest to be charged upon all deferred installments form a stated date. The amount of interest to be charged shall not exceed twelve percent (12%) per annum where the City has issued no bonds or other obligations in anticipation of the special assessment. Where the City has issued obligations in anticipation of the special assessment, the interest rate shall be sufficient to pay the principal and interest on the obligations, but not to exceed a rate of more than one percent (1%) above the average rate of interest borne by the obligations. The amount of each installment, if more than one (1), need not be extended upon the special assessment roll until after confirmation. Deferred installments, together with interest on all unpaid installments, shall be due at intervals of twelve (12) months from the due date of the first installment or from such other date as the Council shall fix. Any one (1) or more installments may be paid to the City Treasurer at any time, together with interest and penalties on all unpaid installments accrued to the date of payment. If any installment of a special assessment is not paid when due, then the same shall be deemed to be delinquent; and there shall be collected thereon, in addition to interest as above provided, a penalty as set forth in City Charter Section 11.3. The City's portion of the cost of any improvement may be divided into installments the same as the assessments against lands in the district, and in such case the provisions of this chapter relative to such installments shall apply to the city installments insofar as they are applicable.

(Ord. No. 833A, Sec. 10, 11-20-95)

Sec. 72-11. Assessment to be lien on property.

Upon the confirmation of each special assessment roll, the special assessments thereon shall become a debt to the city from the persons to whom they are assessed and, until paid, shall be a lien upon the property assessed, for the amount of such assessments and all interest and charges thereon. Such lien shall be of the same character and effect as created by the City

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

(Ord. No. 833A, Sec. 11, 11-20-95)

Sec. 72-12. Collection.

When any special assessment shall be confirmed, the Council shall direct the assessments so made in the special assessment roll to be collected. The City Clerk shall thereupon deliver to the City Treasurer said special assessment roll to which he shall attach his warrant commanding the City Treasurer to collect from each of the persons assessed in said roll the amount of money each of the persons assessed to and set opposite his name therein. Upon receiving such special assessment roll and warrant, the City Treasure shall proceed to collect the several amounts assessed therein.

(Ord. No. 833A, Sec. 12, 11-20-95)

Sec. 72-13. Delinquent assessments.

In addition to any other remedies and without impairing the lien therefore, any delinquent special assessment, together with interest and penalties, may be collected in an action of assumpsit in the name of the City, against the person assessed, in any court having jurisdiction of the amount. If in any such action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the Defendant or upon the premises sought to be charged, the court may, nevertheless, on satisfactory proof that expense has been incurred by the City, which is a proper charge against the Defendant or the premises in question, render judgment for the amount properly chargeable against such Defendant or upon such premises.

(Ord. No. 833A, Sec. 13, 11-20-95)

Sec. 72-14. Division of lands after assessments.

Should any lot or parcel of land be divided after a special assessment thereon has been confirmed and before the collection thereof, the Council may require the Assessor to apportion the uncollected amounts upon the several parts of such lot or parcels of land. The report of such apportionment, when confirmed, shall be conclusive upon all parties, provided that, before such confirmation, notice of hearing shall be given to all the interested parties by personal service or by publication and mailing as above provided in case of an original assessment roll.

(Ord. No. 833A, Sec. 14, 11-20-95)

Sec. 72-15. Additional assessments; limit.

Additional pro rata assessments may be made when any special assessment roll proved insufficient to pay for the improvement for which it was levied and the expenses incidental thereto or insufficient to pay the principle and interest on bonds issued in anticipation of such assessment roll, provided that the additional pro rata assessment shall not exceed twenty-five percent (25%) of the assessment as originally confirmed, unless a meeting of the Council is

held to review such additional assessment, for which meeting notices shall be published and mailed as provided in the case of review of the original special assessment roll by the Board of Review as set forth in Section 72-9.

(Ord. No. 833A, Sec. 15, 11-20-95)

Sec. 72-16. Invalid assessments; reassessment to be made.

Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for in the original assessment except as to correction in the proceedings required to make the assessment legal. Whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment; if the payments exceed the amount of the reassessment, refunds shall be made.

(Ord. No. 833A, Sec. 16, 11-20-95)

Sec. 72-17. Special assessment account; disposition of excess funds.

Moneys raised by special assessment for any public improvement shall be credited to a special assessment account and shall be used to pay for the costs of the improvement for which the assessment was levied and of expenses incidental thereto, to repay any principal or interest on money borrowed therefore and to refund excessive assessments. Should the amount collected on assessments prove larger than necessary by less than five percent (5%) or the amount of the original roll, the Council may place the excess in any of the funds of the City, but if the excess shall exceed such five percent (5%), the same shall be credited pro rata on the assessments against the several parcels of lands according to the amounts thereof, such credit as to each parcel to be made upon the unpaid installments to inverse numerical order, provided that, if as to any parcel there shall be no unpaid installments or if the unpaid installments are less than the amount of the credit, then such total or surplus amount of credit shall be applied toward payment of the next city tax levied against such property. If the city shall have been assessed for any portion of the cost of the improvement, then it shall be considered in the same category as the owner of private lands and shall be entitled to its share of any such excess, provided that any amount due the city, which in case of private lands would be applied to the payment of city taxes, shall be refunded to the city in cash.

(Ord. No. 833A, Sec. 17, 11-20-95)

Sec. 72-18. Collection of expenses incurred on single premises.

(a) When any expense shall have been incurred by the city upon or in respect to any single parcel of property, which expense is chargeable against that parcel of property and its owner under the provisions of the City Charter, this ordinance or the laws of the State of Michigan, and it is not of the class required to be pro rated among several lots and parcels of land in a special assessment district, and account of the costs or the labor, material or services for which such expense was incurred, verified by the City manager, with a description of the lot and the name

of the owner, if known, shall be reported to the City Treasurer, who shall immediately charge and bill the owner, if known. Such bill shall be sent by first-class mail to the owner of the property to be assessed and such bills shall notify such owner, in the manner and form set forth in MCL 211.741, et seq, as amended, stating the time the City Council will meet, not sooner than ten (10) days thereafter, for the purpose of adopting a resolution confirming a special assessment upon the parcel for such charges, unless the same are paid prior to the date of such meeting. Upon adoption of such a resolution, the City Council may establish a due date, authorize installment payments, establish interest collection fees and penalties for late payment as provided for in this ordinance.

(b) Upon the adoption of a resolution confirming a special assessment, the City Treasurer shall give notice to all persons chargeable. Such notice shall be sent by first-class mail to the last known addresses of such persons as shown on the assessment roll of the city. Such notice shall state the basis for the assessment and the amount thereof and shall give a reasonable time, not less than fifteen (15) days, within which payment shall be made to the City Treasurer unless installment payments are authorized in the resolution.

(c) In all cases where payment is not made within the time set forth in the notice, the assessment shall become collectible as any special assessment establish pursuant to this ordinance. The resolution referred to in this section shall be treated as a confirmation of a special assessment role in the same manner as set forth in Section 72-10 above.

(d) A property owner may waive notice under this section, and enter into a voluntary acceptance of the resolution confirming the special assessment.

(Ord. No. 833A, Sec. 18, 11-20-95)

Sec. 72-19. Homestead property; deferred collection.

Upon application to the City Assessor, the owner of a homestead who is sixty-five (65) years of age or older or who is totally and permanently disabled may request deferred collection of a special assessment in a manner set forth in Act 225 or 1976, as amended; being MCL 211.761, et seq.

(Ord. No. 833A, Sec. 19, 11-20-95)

Chapters 73

RESERVED

Chapter 74

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

***Cross reference(s)--**Buildings and building regulations, ch. 10; community development, ch. 22; planning, ch. 62; subdivisions, ch. 78; traffic and vehicles, ch. 82; utilities, ch. 86; vehicles for hire, ch. 90.

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ARTICLE I. IN GENERAL

Sec. 74-1. Damaging or destroying streets, alleys or other public places.

No person shall willfully or intentionally injure, damage, mar, destroy, deface or interfere with any sidewalk, bridge, gate, fence, pavement, water main, gutter, hydrant, sign, electric light pole or any electric wires or appliances or other property in the streets, alleys, or other public places in the city.

(Code 1965, Sec. 5.01)

Sec. 74-2. Throwing or placing materials on streets, alleys or public places.

(a) No person shall throw or cause to be thrown or place or cause to be placed any debris or materials in or upon any street, alley or public place except building material may be placed in the street temporarily in front of the premises where buildings are being erected or about to be erected, subject to such rules and regulations as the city may prescribe.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 5.02; Ord. No. 816, Sec. 23, 2-6-95)

Sec. 74-3. Obstructing sidewalks.

(a) No person shall obstruct the full clear and free passage of the entire width of the sidewalk on any street with anything, except as provided for in a license agreement approved by City Council or as otherwise allowed under a permit issued by the City.

(1) Any such license agreement or permit entered into by the City shall require that an unobstructed area with a minimum of five (5') feet be maintained as a clear path along the full length of sidewalk. The clear path shall be parallel with the right-of-way line.

(2) The clear path shall be aligned with any clear path on adjacent properties as provided for in any existing license agreement with the City.

(3) No obstruction shall block or impede the passage and free movement of pedestrians entering the sidewalk from a legally parked vehicle.

(b) Merchants and others may occupy the sidewalk where such sidewalk is at least ten feet wide, immediately in front of their respective places of business to the extent of three feet for the purpose of displaying goods, wares or merchandise only, provided that such goods, wares or merchandise be removed no later than 10:00 p.m. daily, and provided that a license agreement for this use has been approved by the City Council.

(c) All obstructions shall be removed from the sidewalk from November 15 to march 15 at all times during sidewalk snow removal.

(d) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 5.03; Ord. No. 776, Sec. 1(5.03), 2-1-93; Ord. No. 816, Sec. 24, 2-6-95; Ord. No. 868, 12-21-98)

Sec. 74-4. Use of parkways and sidewalks.

(a) That portion of the streets and highways of the city shall be parkways, where on a street where a sidewalk and concrete curb exist, the space between the outer margin of the sidewalk and the curb; or where a curb exists but no sidewalk, that space between the curb and the street line.

(b) Except where permitted by this chapter, no person shall use any parkway or sidewalk for advertising purposes of any nature; for the display of signs, wares, goods or merchandise or storage of the same; nor for parking or storage of any vehicle, cart, trailer, or other movable object at any time.

(c) There is excepted from the provisions of this section all drives from the street into public or private property, and all spaces which the council shall by resolution or otherwise necessarily exempt from the provisions of this section for the purpose of widening the sidewalk, the parkway or the street, or paving the parkway and drives in front of or adjacent to adjoining business property. Also excepted from the provisions of this section is the placing of traffic signs and posts by public authorities.

(d) Any person who shall violate any provisions of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 5.04; Ord. No. 795, Sec. 1, 11-15-93; Ord. No. 816, Sec. 25, 2-6-95)

Sec. 74-5. Litter of public property or water.

(a) It is unlawful for any person knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property or waters other than property designated and set aside for such purposes. The phrase "public or private property or water" includes, but is not limited to, the right-of-way of any road or highway, any body of water, watercourse or the shores or any beaches thereof and including the ice above such waters, any park, playground, building or any conservation or recreation area and any residential, commercial or industrial property.

(b) The term "litter" used in this section means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

(c) Any person violating any provision of this section shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties prescribed in section 1-13. The court in lieu of any other sentence imposed may direct a substitution of litter gathering and labor, including, but

not limited to, the litter in connection with the particular violation under the supervision of the court.

(Code 1965, Sec. 5.05)

Sec. 74-6. Utilities in streets, alleys and other public places.

No person shall place any telephone, telegraph, gas, electric light or other posts, poles, pipes, conduits, wires or thing in any street, alley or other public place in the city except and only upon written permission given by the city determining the location of such poles, posts, pipes, conduits or wires. A record of all permits thus given and of the location of each pole, post, pipe, conduit, or wire shall be kept in the office of the city clerk.

(Code 1965, Sec. 5.07)

Sec. 74-7. Barbed wire fences.

No person shall maintain a barbed wire fence or fence partly of barbed wire within the platted portions of this city; nor shall any person maintain a barbed wire fence or a fence partly of barbed wire adjacent to any street or sidewalk within the city.

(Code 1965, Sec. 5.08)

Sec. 74-8. Planting of poplar and willow trees.

(a) No person shall plant any poplar or willow trees within any of the public streets or alleys of the city.

(b) No person shall plant or maintain any poplar, willow or other trees upon his premises near enough to any public sewer in the city so that the roots from such tree shall endanger the operation of such sewer. Upon notice from the board of public works that any such tree endangers the operation of a public sewer, the owner or occupant of such premises shall remove such tree within ten days from such notice.

(Code 1965, Sec. 5.09)

Sec. 74-9. Overhanging trees.

(a) *Notice to trim.* The branches of all trees which overhang any sidewalk, street, or alley shall be so cut and trimmed that no branch or part of a branch shall come within eight feet of the street or sidewalk. The owner or person having charge of such trees, upon being notified by the city, shall cut or trim the branches to such height within five days after such notice.

(b) *Removal of dead branches.* The owner or person having charge of any shade or other trees shall not allow any dead branches to overhang any street or sidewalk.

(c) *Failure to remove; lien.* Upon failure of any person to trim or remove such trees upon notice, the board of public works is hereby authorized to have such trees removed or trimmed and the expense thereof shall be assessed against the property as a special assessment.

(d) *Violation penalties.* In addition to any other penalties set forth herein, any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 5.10; Ord. No. 816, Sec. 26, 2-6-95)

Sec. 74-10. Erection or maintenance of signs and awnings without permit.

(a) No person shall erect or maintain any sign or awning or other thing less than seven feet above any sidewalk. No person shall place any sign, banner, flag or device over or across any public street or alley without a permit from the city.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 5.11; Ord. No. 816, Sec. 27, 2-6-95)

Sec. 74-11. Posting signs, posters, handbills.

(a) No person shall fasten any obscene or any indecent picture, handbill, advertisement or written or printed matter in any street, alley or other public place in the city. No person shall mark, write, print or impress any sign, mark, advertisement or character upon or fasten any advertisement, sign or handbill of any kind upon any school, home, church or any public building, bridge, viaduct or other public structure or any post or pole belonging to the city; nor upon any telephone, telegraph, electric light or other post or pole or upon any shade or ornamental tree or tree box in any street, alley or public place in the city; nor shall any person fasten any advertisement, poster, handbill or placard of any kind or mark or write or print or impress any mark, sign, advertisement or character upon any fence, post, pole, building or other structure on the property of another in the city without permission from the owner of such property.

(b) Any person who shall violate any provision of this section shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 5.12; Ord. No. 816, Sec. 28, 2-6-95)

Sec. 74-12. Tag days on streets.

(a) *Permission required.* No person, group or organization shall engage in or conduct a tag day on the public streets or places in the city unless permission for such activity has first been obtained from the council. For purposes of this section, efforts by an individual to post any advertisement, sign or handbill throughout the city shall constitute a tag day.

(b) *Application.* Application for such permission shall be made in writing to the city clerk and shall indicate the days for which permission is requested, the status of the applicant, the purpose of the request, and such other information as may be pertinent to such request. Such application shall be made and executed by the applicant or his authorized agent.

(c) *Hearing.* The city clerk shall present such application to the council at its first meeting after the date of application, and at such time the council will hear and consider the application. The applicant or his agent may appear at such council meeting and further inform the council in regard to its request.

(d) *Determination of council.* The council shall hear and consider such requests at its meetings when presented, and shall make determination as to whether or not the best interest of the city would be served by the granting of such request. If it shall determine that the interests of the city will be benefitted, it may grant permission to conduct a tag day to the applicant; provided however, that not more than one such permission will be granted to the same applicant in any one calendar year.

(e) *Penalty for violation.* Any person who violates any provision of this section shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties prescribed in section 1-13.

(Code 1965, Sec. 5.13)

Sec. 74-13. Gates.

No person shall maintain any gate that opens outward upon any street or sidewalk unless such gate hangs on double hinges.

(Code 1965, Sec. 5.15)

Sec. 74-14.1. Approval of awning over the public right of way.

The City Manager, or the City Council when requested by the City Manager, shall review and approve, deny or approve with conditions all requests for the installation of an awning over the public right-of-way. No awning shall be installed over the public right-of-way except with a valid building permit. The building inspector shall not issue a building permit for an awning over the public right-of-way without approval from the City Manager or the City Council.

(Ord. No. 880, 2-21-00)

Sec. 74-14.2. License agreement for the installation of an awning over the public right-of-way.

A license agreement shall be executed prior to installation of an awning over the public right-of-way, which protects the City from liability related to the awning ensures that the awning will be properly maintained, and includes procedures for action to bring the awning into compliance with the terms of the agreement.

(Ord. No. 880, 2-21-00)

Sec. 74-14.3. Standards for approval of awnings over the public right-of-way.

If the City Manager finds that the request does not meet one or more of the standards in this section, the City Manager shall deny the application.

(1) *Height*: The lowest part of the awning shall be no lower than 90” above the grade of the pavement. The vertical dimension of the awning shall be no greater than 48” from the highest point to the lowest point of the awning. No awning shall be installed above the second story window of the structure, except for decorative awnings which extend less than 36” from the face of the building.

(2) *Length*: No awning shall extend more than 84” out from the face of the building. No awning shall extend further out from the building than to where it overhangs a point of 48” from the street curb line.

(3) *Support posts*: Support posts shall not be permitted without Council approval.

(4) *Color*: The color shall be of moderate color, consistent with the downtown appearance. No fluorescent colors shall be used.

(5) *Advertising*: Lettering and logos shall be consistent with the Sign Ordinance in height and include only the name of the business. Only logos of businesses may be used.

(6) *Lighting*: Lighting shall be indirect, and shielded to prevent any glare to pedestrians, vehicles and other structures.

(7) *Installation*: A professional awning or sign installer shall construct and install the awning.

(8) *Application*: A true color drawing to scale of the awning and a drawing showing the location of the awning on the structure shall be submitted with the application to install an awning.

(Ord. No. 880, 2-21-00; Ord. No. 912, 03-17-03)

Sec. 74-14.4. Appeals, interpretations, and variances.

The City Council shall hear requests for installation of awnings over the public right-of-way which do not meet the standards in Section 74-14.3, and may modify the standards and requirements for approval of awnings over the public right-of-way. The City Council may approve requests for awnings over the public right-of-way which do not meet the standards in Section 74-14.3.

(Ord. No. 880, 2-21-00)

Sec. 74-14.5. Severability.

Should any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this Ordinance.

(Ord. No. 880, 2-21-00)

Sec. 74-15. Operation of ORVs

(c) Definitions. As used in this Section:

(1) "ATV" means a vehicle with 3 or more wheels that is designed for off-road use, has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 1,000cc gasoline engine or an engine of comparable size using other fuels.

(2) "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.

(3) "Operator" means an individual who operates or is in actual physical control of the operation of an ORV.

(4) "ORV" or, unless the context implies a different meaning, "Vehicle," means a motor-driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes a side-saddle 4-wheel vehicle or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a golf cart, registered snowmobile, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel or 6-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft, as the term(s) are defined pursuant to section 81101 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.101 *et seq*.

(5) "Street" means a city major street or city local street as described in section 9 or 1951 PA 51, MCL 247.659, or a segment thereof.

(d) Except as set forth herein or otherwise provided by law, an individual may operate an ORV on city streets subject to the following restrictions:

(1) ORVs may be operated from May 1 to October 31 during the hours of 6:00 a.m. to 9:00 p.m., and from November 1 to April 30 during the hours of 8:00 a.m. to 5:00 p.m.

(2) No person under 12 years of age shall operate an ORV.

(3) A person under the age of 18 years of age shall not operate an ORV unless the person is in possession of a valid driver license or under the direct supervision of a parent or guardian and the person has in his or her immediate possession an ORV safety certificate issued pursuant to Part 811 of the Michigan Natural Resources and Protection Act or a comparable ORV safety certificate issued under the authority of another state or a province of Canada. These requirements are in addition to any applicable requirements of state law in MCL 324.81129, as may be subsequently amended.

(4) All ORV operators 18 years of age or older shall have in their immediate possession a valid driver license.

(5) A person shall not operate an ORV at a speed greater than 25 miles per hour or a lower posted ORV speed limit or in a manner that interferes with traffic on the street. In no event shall a person operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner, having due regard for conditions then existing.

(6) Unless the person possesses a valid driver license pursuant to MCL 257.25, as amended, a person shall not operate an ORV if the ORV is registered as a motor vehicle and either is more than 65 inches wide or has three (3) wheels.

(7) ORVs shall travel single file except that an ORV may travel abreast of another ORV when it is overtaking or passing, or being overtaken and passed by, another ORV.

(8) ORVs shall display a lighted headlight and lighted taillight at all times.

(9) A person shall operate an ORV with the flow of traffic on the far right of the maintained portion of the street, in a manner that does not interfere with traffic on the street.

(10) Operation of ORVs is prohibited in all cemeteries in the City.

(11) Operation of ORVs is prohibited on all beaches, sidewalks, and other pathways not specifically designed for motor vehicle use. This prohibition shall not apply to agents of the City, or other law enforcement personnel in the performance of their official duties.

(12) A person shall not transport any passenger in or upon an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.

(13) A person shall not operate an ORV unless the vehicle is equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour; a brake light, brighter than the taillight, visible from behind the vehicle when the brake is activated, if the vehicle is operated during the hours of 1/2 hour after sunset and 1/2 hour before sunrise; and a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.

(14) An individual shall not operate an ORV unless the vehicle is equipped with a Roll-Over Protective Structure ("ROPS") as that term is defined in the Occupational Safety and Health Administration regulations.

(15) An individual who is operating or is a passenger on an ORV shall wear a crash helmet and protective eyewear that are approved by the United States department of transportation. This subsection does not apply to an individual wearing a properly adjusted and fastened safety belt if the ORV is equipped with a roof that meets or exceeds United States department of transportation standards for a crash helmet.

(16) An ORV shall not be operated on any state trunk line right-of-way, except that the operator of a vehicle may cross a street, county road, or highway, other than a limited access highway, at right angles, for the purpose of getting from one area to another, if the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a street, county road, or highway, and shall yield the right-of-way to oncoming traffic.

(e) An ORV shall not be operated within the City unless and until the ORV is licensed in accordance with all applicable state licensing requirements and unless and until the ORV has all equipment required under applicable state law.

(f) A person operating an ORV within the City shall comply with all applicable federal, local, and state regulations, including but not limited to the provisions of Part 811 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.81101 *et seq*., as may be subsequently amended.

(g) A person who violates this ordinance is responsible for a civil infraction and subject to a fine of not more than $500.00.

(h) In addition to the fine provided for herein, a court shall order violators of this ordinance to pay the cost of repairing any damage to the environment, a street, county road, or highway, or public property as a result of the violation pursuant to MCL 324.81131(17).

(i) The City Treasurer shall deposit fines and damages collected for violations of this ordinance into a fund to be designated as the "ORV Fund." City council shall appropriate revenue in the ORV Fund as follows:

(1) Fifty percent to the City of South Haven Police Department for ORV enforcement and training.

(2) Fifty percent to the City of South Haven Public Works Department to be used for repairing damage to streets and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether streets are open or closed to the operation of ORVs under this ordinance.

(j) This ordinance can be repealed or modified at any time, has a sunset provision, and is not effective 1 year after enactment unless reauthorized by ordinance of City Council.

(Ord. No. 1023, Sec. 1, 11-02-2015)

Secs. 74-16--74-34. Reserved.

ARTICLE II. SNOW REMOVAL

Sec. 74-35. Penalty for violation of article.

Any person who shall violate any provision of this article shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Code 1965, Sec. 5.06(e); Ord. No. 816, Sec. 29, 2-6-95)

Sec. 74-36. Responsibility for snow; methods.

Except on sidewalks where the City is undertaking snow removal, if any, no person shall permit any snow or ice to remain on any sidewalk in front of any structure or lot occupied by him or her, or on any sidewalk in front of any unoccupied structure or lot owned by him or her, longer than 72 hours after the snow or ice has fallen or formed. The owner or occupant shall cause generally accepted snow melting or ice melting compounds, including salt, sand or other generally accepted materials used to provide traction, to be strewn upon such sidewalk if the ice or snow cannot be removed.

(Code 1965, Sec. 5.06(a); Ord. No. 998, Sec. 1, 11-05-2012)

Sec. 74-37. Depositing of snow and ice.

A person removing snow or ice from a sidewalk in accordance with this article, or from any driveway, street, alley, parking lot or other area in the city, shall not deposit it on any sidewalk, street or alley. Snow or ice may be placed or deposited in an area between the sidewalk and the curb-line when such area is adjacent to the property from which the snow or ice is removed, in such quantity as will not create a traffic or pedestrian hazard.

(Code 1965, Sec. 5.06(b); Ord. No. 998, Sec. 1, 11-05-2013)

Sec. 74-38. Repealed.

(Code 1965, Sec. 5.06(c); Ord. No. 998, Sec. 1, 11-05-2012)

Sec. 74-39. Repealed.

(Code 1965, Sec. 5.06(d); Ord. No. 998, Sec. 1, 11-05-2012)

Secs. 74-40--74-60. Reserved.

ARTICLE III. EXCAVATIONS

Sec. 74-61. Penalty for violation of article.

Any person who shall violate any provision of this article shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16.

(Ord. No. 744, Sec. 1(g), 7-28-91; Ord. No. 816, Sec. 30, 2-6-95)

Sec. 74-62. Permit required.

It shall be unlawful for any person, except the city engineer and employees of the city under the direction of the city engineer, to cut, dig, excavate or remove any material or contents from any street, alley, sidewalk, or public place in the city, without first obtaining a permit from the city to perform such work.

(Code 1965, Sec. 5.14; Ord. No. 744, Sec. 1, 7-28-91)

Sec. 74-63. Application for permit.

Any person desiring to cut, dig or excavate in any street, alley, sidewalk, or public place in the city shall make application to the city engineer or designated individual for a permit to do so. The permit shall show the location of the excavation and state the purpose of the excavation. All requirements contained in this article shall be fulfilled prior to the issuance of a permit by the city engineer.

(Ord. No. 744, Sec. 1, 7-28-91)

Sec. 74-64. Applicant to deposit bond; conditions.

Before any permit is issued under this article, the city may require the applicant for the permit to deposit with the city engineer a bond executed by himself and a surety company authorized to do business in the state, in a penal sum as set by resolution by the city council. The condition of the bond shall be that the person bound thereunder shall make such excavations in a workmanlike manner and that he will comply with the terms of this article and the general laws, and save the city harmless from any and all liability caused by or arising from his work, or by any unfaithful or inadequate work done by virtue of his permit; he will fill and repair or cause to be filled and repaired all openings which he may make in streets, alleys, or public places in accordance with the requirements of this article and the dictates of good workmanship to the satisfaction of the city engineer. The bond shall be maintained on file with the city clerk and shall ensure the city that restoration of the excavation or pavement cut will be satisfactorily completed within two years from date of completion. Bond requirements may be waived for sidewalk cuts or replacement if, in the opinion of the city engineer, such bonding is not necessary, and provided that certain assurances are made that will guarantee satisfactory completion of pavement restoration.

(Ord. No. 744, Sec. 1, 7-28-91)

Sec. 74-65. Applicant to pay excavation charge.

Before any permit is issued under this article and in addition to the required bond, the city may require the applicant to pay a nonrefundable excavation charge in an amount set by resolution by the city council to cover future restoration repairs which may arise after the two-year bond has expired. Such charge may be refundable only for sidewalk work which has been permanently repaired or replaced to the satisfaction of the city engineer.

(Ord. No. 744, Sec. 1, 7-28-91)

Sec. 74-66. Applicant to pay insurance.

Before any permit is issued under this article and in addition to the required bond and excavation charge, the city may require the applicant to place on file with the city clerk a properly executed insurance certificate in his own name with the city listed as an additional insured. Such certificate shall insure the applicant for his entire automobile liability for his operations and shall provide comprehensive general liability coverage for his operations other than automobile operations. A certificate shall also insure the applicant for workmens' compensation coverage. Minimum amounts of liability coverage shall be set by resolution of the council.

(Ord. No. 744, Sec. 1, 7-28-91)

Sec. 74-67. Responsibilities of permit holder.

(a) *Surface restoration.* Where an excavation is made in a paved street or alley or where it is necessary to remove sidewalks or driveways, the person holding the permit shall provide for placing a satisfactory surface of gravel and maintaining the surface at the level of the adjacent street or ground until such time as permanent pavement is placed. The permit holder shall be responsible for performing surface restoration of streets, sidewalks, alleys, and public places in accordance with city specifications as set by the city engineer.

(b) *Performance of work.* Any person to whom an excavation permit has been issued under this article shall promptly complete the work and restore the street, alley, sidewalk or other public place in a good workmanlike manner which is safe and convenient for public use.

(Ord. No. 744, Sec. 1, 7-28-91)

Sec. 74-68. Subcontractor requirements.

Any person acting as a subcontractor for the holder of an excavation permit shall be required to file a certificate of insurance with the city clerk, as provided in section 74-64. The holder of a permit shall not employ as a subcontractor any person who has not filed a proper certificate of insurance with the city clerk.

(Ord. No. 744, Sec. 1, 7-28-91)

Sec. 74-69. Continuing bond.

A continuing bond may be filed embracing all such work which the applicant may do in a one-year period. In case a continuing bond is given, the bond shall be in a penal sum as set by resolution by the city council. Such bond shall be conditioned as to secure the same assurances as set forth in section 74-64.

(Ord. No. 744, Sec. 1, 7-28-91)

Sec. 74-70. Barriers and lights.

Any person to whom a permit has been issued under this article shall provide for the erection and maintenance of strong and substantial barriers around such excavation. Such barricades and excavation shall be protected by necessary signal lights conforming to the state manual of uniform traffic control devices from one-half hour before sunset until one-half hour after sunrise, and during such other times as may be necessary to protect the public. Such barricades shall be maintained from the time the work is started until the excavation has been entirely completed and made safe for public use.

(Code 1965, Sec. 5.16; Ord. No. 744, Sec. 3, 7-28-91)

Sec. 74-71. Removing barriers; driving on unfinished streets.

No person shall remove any barricade or warning light on any street, or ride or drive on an unfinished street between barricades within the city.

(Code 1965, Sec. 5.17)

Secs. 74-72--74-90. Reserved.

ARTICLE IV. SIDEWALKS

DIVISION 1. GENERALLY

Sec. 74-91. New development.

In an R-1, R-2 zoning district, as defined in the city's zoning ordinance:

(1) When no site plan approval is required, sidewalks shall be installed on property adjacent to public streets.

(2) When site plan approval is required, the city council, after review and recommendation by the planning commission in accordance with the city's zoning ordinance, shall require sidewalks adjacent to public streets when there are existing sidewalks on adjacent property and may require sidewalks adjacent to private streets.

(Code 1965, Sec. 5.18; Ord. No. 726, Sec. 1, 6-15-89)

Secs. 74-92--74-100. Reserved.

DIVISION 2. CONSTRUCTION AND REPAIR

Sec. 74-101. Required.

No person shall permit any sidewalk which adjoins property owned or occupied by him to fall into a state of disrepair or to be unsafe.

(Code 1965, Sec. 5.18(a); Ord. No. 720, Sec. 2(a), 1-26-89)

Sec. 74-102. Real estate owners' duty; costs.

It shall be the duty of all owners of real estate in this city to build and repair sidewalks along the line of streets and abutting upon such real estate whenever the city manager shall, in his judgment, decide that public necessity demands the construction or repair of such sidewalk. If the sidewalk construction or repair work is done by the city's sidewalk repair contractor, the city and the property owner will each pay 50 percent of the construction or repair costs for such sidewalk, as determined by the city's sidewalk repair contract, or 50 percent of the actual cost, whichever is less. The property owner will pay the remaining cost of the construction or repair of such sidewalk.

(Code 1965, Sec. 5.18(b); Ord. No. 720, Sec. 2(b), 1-26-89)

Sec. 74-103. Order of city manager.

When, in the judgment of the city manager, construction or repair of a sidewalk in front of or abutting upon any real estate is a public necessity, he shall order the owner of such real estate to construct or repair such sidewalk in accordance with terms of this section and the plans and specifications of the city.

(Code 1965, Sec. 5.18(b); Ord. No. 720, Sec. 2(c), 1-26-89)

Sec. 74-104. City clerk to give notice to owner.

Upon such order being given pursuant to section 74-103 by the city manager, it shall be the duty of the city clerk to forthwith to notify the owner of such real estate, which notice shall

specify where such sidewalk is ordered to be constructed or repaired. Such notice shall specify a reasonable time, not less than 21 days, within which such work shall be commenced. Service of such notice may be either personally or by depositing such notice in the post office and addressed to such owner at his last known address. If the owner or the address of the owner is unknown, then such notice shall be delivered to the occupant, if any, of the premises.

(Code 1965, Sec. 5.18(c); Ord. No. 720, Sec. 2(d), 1-26-89)

Sec. 74-105. Failure of owner to construct or repair; billing of owner for costs.

If such owner shall fail to construct or repair such sidewalk within the time specified in the notice, the city manager shall authorize commencement of the construction or repair of the sidewalk. Upon completion of the construction or repairs, the city will bill the adjoining property owner for 50 percent of the cost.

(Code 1965, Sec. 5.18(d); Ord. No. 720, Sec. 2(e), 1-26-89)

Sec. 74-106. Failure of owner to pay costs; lien or payment plan.

If the owner fails to pay 50 percent of the cost of sidewalk repairs within 30 days after billing by the city, such cost shall be a lien on the subject premises, shall be assessed against the subject premises, and shall be collected in the same manner as provided by law for the collection of city taxes on real estate. If the property owner is unable to pay 50 percent of the cost of sidewalk repairs in a lump sum amount, upon special request by the owner to the city treasurer, a monthly payment plan may be allowed by the city. Any such monthly payment plan shall not exceed a period of 36 months. All unpaid amounts will be financed at a rate equal to the current prime rate of interest.

(Code 1965, Sec. 5.18(e); Ord. No. 744, Sec. 4(f), 7-28-91)

Sec. 74-107. Sidewalk specifications.

Unless otherwise specified by the council by resolution or otherwise, sidewalks built on any street in the city shall be constructed according to the following specifications:

(1) *Concrete for sidewalks.* All gravel shall be fairly dry before being mixed. One barrel of cement to one yard of gravel should be mixed through twice before water is put on, then mixed once wet. Enough water shall be used to thoroughly wet every part of the mixture. The cement shall be placed in sidewalk forms to the depth of four inches and properly tamped. There shall be at five-foot lengths cuts made across the walk and sanded. The top dressing shall be floated on the sidewalk at once and worked down with a wood float and finished smooth with a steel trowel. The edges of the walk shall be rounded with a one-half-inch radius edger; and, at the five-foot sections, the walk shall be cut or creased with a jointing or creasing tool.

(2) *Top dressing.* Top dressing shall be made of fairly coarse sand and cement proportioned one to two, or two cubic feet of sand to one bag of cement, thoroughly dry mixed and water enough to make the dressing float easily over

the surface of coarse aggregates. Enough of this top dressing shall be put on to properly cover all coarse material and to make a smooth surface.

(3) *Crosswalks.* Crosswalks or a walk built across a street shall be of the same mixed material as other walks, built to a thickness of six inches, seven feet wide, sloped back 12 inches from the edges to the outer edges and shall be four inches thick. In case of a high clay bank along the line of the walk, the inside edge of the walk should be properly tiled to protect the walk from breaking in winter weather.

(Code 1965, Sec. 5.20)

Secs. 74-108--74-130. Reserved.

ARTICLE V. DRIVEWAYS

Sec. 74-131. Definitions.

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

Circle driveway means a private driveway that enters and leaves private property at two points within the same frontage.

Frontage means a private property line that abuts a highway or street right-of-way.

Residential driveway means a driveway serving a private home.

(Code 1965, Sec. 5.21)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 74-132. Conditions and limitations.

(a) The design, location, construction and operation of driveways and related construction shall meet the requirements of the state department highways rules pertaining to driveways.

(b) The city reserves the right of inspection by its authorized representatives of driveway construction and public safety precautions.

(c) The contractor will provide and maintain necessary precautions to prevent injury or damage to persons and property from all operations. Necessary warning signs and safety devices will be the responsibility of the contractor.

(d) Alteration of existing drainage will not be permitted unless approved by the city.

(e) The property owner or his agent will maintain the construction work area in a clean manner during and after completion.

(f) The property owner or contractor shall submit a site plan to the city building department for approval and obtain a building permit before construction is commenced.

(Code 1965, Sec. 5.21(b))

Sec. 74-133. Driveway locations.

(a) A driveway will be so located as to provide the most favorable vision with no undue interference with the free movement of street traffic.

(b) A driveway, including the radii, will be located entirely within the area between the owners' property lines. A driveway and/or radii may extend outside of that area only if the adjacent property owner certifies in writing that he will permit such extension.

(c) When a driveway is to be located adjacent to a street intersection, the driveway radius will be at least 20 feet from the intersecting street radius.

(Code 1965, Sec. 5.21(c))

Sec. 74-134. Number and separation.

(a) Unless otherwise authorized, one residential driveway will be permitted for each platted lot having frontage of 80 feet or less.

(b) Two residential driveways will be permitted on the same property with footage of 80 feet or more, provided that such driveways will be at least 45 feet apart, center to center.
(Code 1965, Sec. 5.21(d))

Sec. 74-135. Surfacing of driveways and curbs.

(a) A residential driveway will be paved between the edge of the pavement and the property lines.

(b) Driveways will be surfaced with concrete, bituminous or equivalent material as follows:

(1) Six inches of unreinforced concrete.

(2) Four inches of reinforced concrete.

(3) Two inches of asphalt.

(c) The driveway curb will match the existing street curb.

(Code 1965, Sec. 5.21(e))

Sec. 74-136. Grade.

(a) The grade of the driveway will be the grade required to meet the sidewalk elevation.

(b) If the sidewalk elevation has to be adjusted to meet the proposed driveway, the sidewalk may be inclined at a rate not to exceed one inch to one foot.

(Code 1965, Sec. 5.21(f))

Chapters 75—77

RESERVED

Chapter 78

SUBDIVISIONS*

***Editor's note--**A map depicting the urban service area may be examined at the office of the city clerk.

Cross reference(s)--Buildings and building regulations, ch. 10; planning, ch. 62; streets, sidewalks and other public places, ch. 74; utilities, ch. 86.

State law reference(s)--Subdivision control act, MCL 560.101 et seq., MSA 26.430(101) et seq.; minimum standards, MCL 560.259, MSA 26.430(259).

Sec. 78-1. Purpose of chapter.
Sec. 78-2. Administration of chapter.
Sec. 78-3. General provisions for all subdivisions.
Sec. 78-4. Procedure for approval.
Sec. 78-5. Details to be shown on plats.
Sec. 78-6. Lot sizes in relation to improvements.
Sec. 78-7. Improvements required in complete utility subdivisions.
Sec. 78-8. Improvements required in partial utility subdivisions.
Sec. 78-9. Variations in complete and partial utility subdivisions.
Sec. 78-10. Improvements required in potential utility subdivisions.
Sec. 78-11. Variations in potential utility subdivisions.
Sec. 78-12. Improvements required in private service subdivisions.
Sec. 78-13. Variances.

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Sec. 78-1. Purpose of chapter.

In their interpretation and application the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of public health, safety, convenience and general welfare. It shall be administered to ensure orderly growth and development, to conserve, protect and adequately provide for circulation, utilities, and services, all with a view to conserving the value of property and encouraging the most appropriate use of land in the city and its service area.

(Code 1965, Sec. 22.02)

Sec. 78-2. Administration of chapter.

This chapter shall be administered by the council. The rules, regulations and standards imposed by this chapter shall be considered to be the minimum requirements for the protection of the public health, safety and welfare of the citizens of the city, and in interpreting and applying them the council shall give primary consideration to these factors.

(Code 1965, Sec. 22.13)

Sec. 78-3. General provisions for all subdivisions.

The provisions of this section apply to all subdivisions.

(1) *Master plan.* All subdivisions shall conform whenever possible to the provisions and conditions of the master plan for future development of the city.

(2) *Streets.* All streets shall conform in width, direction and alignment with the official map mentioned in section 78-6 and shall connect with existing streets shown thereon with a minimum of jogs or sharp angles. Curving streets shall have minimum radii of 200 feet, and the minimum width of street easements shall be 60 feet. In case of streets which may be required for arterial use, a greater width easement may be required by the council.

(3) *Dead-end streets.* Dead-end streets shall not exceed 800 feet in length unless an outlet with minimum of 60 feet width is provided when required. There shall be a turnaround roadway with a minimum outside curb radius of 50 feet at the closed end.

(4) *Block lengths.* No block shall exceed 1,000 feet in length. Outlets may be required at a lesser length if deemed necessary by the planning commission and ten-foot or more pedestrian crosswalks or utility easement may be required.

(5) *Reserve strips.* No subdivision showing reserve strips controlling access to streets shall be approved except where the control and disposal of land comprising such strip has been placed in the city or the county road commission under conditions approved by the city.

(6) *Street grades.* No street grade shall be less than one-half of one percent, nor greater than seven percent, except in special instances where the topography of

the land to be subdivided is such as to make it impossible to otherwise develop such land. Nonpassing sight distance shall be at least 300 feet.

(7) *Suitability.* Where there is a question as to the suitability of a lot for their intended use due to factors such as rock formations, flood conditions or similar circumstances, the planning commission may, after adequate investigation, withhold approval of such lots.

(8) *Easements.* Where a subdivision is traversed by a watercourse, drain or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with lines of the watercourse, and such further width for construction as deemed adequate by the city engineer, county road commission, and the county drain commission.

(9) *Public sites and open spaces.* Where a proposed park, playground, school or other public use shown in the community plan is located in whole or in part in a subdivision, the planning commission shall bring the same to the attention of the platter and discuss the question of acquiring such areas by dedication or reservation.

(10) *Monuments.* Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as may be required by the city engineer. Monuments shall be of such material, size and length as approved by the city engineer.

(11) *Business and industrial subdivisions.* Where land is subdivided to be used for business or industrial purposes permitted by the zoning regulations, the services and improvements to be required shall be fixed by the planning commission with reference to the use and density of the subdivided area and the type of business or industrial activity to be carried on in the subdivided area in accordance with the provisions of section 78-7, specifications as to size, location, etc., to be established by the city engineer.

(12) *Street names.* All names will be subject to approval of the planning commission and may be required to conform with the county numbering system.

(Code 1965, Sec. 22.12)

Sec. 78-4. Procedure for approval.

(a) *Sketch plats.* A sketch plat of a subdivision may be submitted to the planning commission for preliminary plat discussion before the preliminary plat is prepared. This step is recommended. The sketch plat is designed to enable the planning commission and the applicant to discuss principles involved before the applicant has gone to the expense of completing detailed engineering drawings. The planning commission will act on such plat, and if satisfactory, give sketch plat approval. This approval will not be binding, and will be subject to change, but will enable the applicant to proceed on a reasonable, sound basis. Sketch plat approval does not carry the authority to proceed with construction.

(b) *Preliminary plats.*

(1) At least four black on white prints of a preliminary plat shall be submitted to the city clerk two weeks before the regular planning commission meeting at which the plat's consideration is desired. This preliminary plat shall show the details and contain the information required in section 78-5.

(2) The planning commission shall consider the preliminary plat and shall require any such changes or modification of the preliminary plat to be made as are necessary to make such plat comply with the provisions of this chapter and shall return it to the subdivider for compliance. If the preliminary plat as originally submitted, or as changed or modified, as required by the planning commission, meets the requirements of this chapter, the planning commission shall give it tentative approval. It shall then be referred to the council for tentative approval, and, upon tentative approval of the council, the city clerk shall affix his signature to it with the notation that it has received council tentative approval and it shall then be returned to the subdivider for compliance with final approval requirements.

(3) Tentative approval by the council shall give applicant the following rights for a one-year period from the date of approval:

a. The general terms and conditions under which the tentative approval was granted will not be changed by the city.

b. The applicant may submit on or before the expiration date the whole or parts of the tentatively approved plat for final approval.

(c) *Final approval.* Within one year from the date of tentative approval, four copies of the final plat shall be submitted to the city clerk at least five days prior to a regular meeting of the council. Before receiving final approval, the subdivider shall show that he has made agreements for the installation of the services and improvements required by section 78-6 through section 78-12. A fee of $1.00 for each lot within the plat, but not to exceed a total of $40.00, shall be paid to the city at the time of filing the final plat for final approval. If, in the opinion of the council, the final plat meets the requirements of Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, and of this chapter, it shall give it final approval, and a notation to that effect shall be made on each plat, signed by the city clerk.

(Code 1965, Sec. 22.03)

Cross reference(s)--Approval of plats, Sec. 62-37.

Sec. 78-5. Details to be shown on plats.

(a) *Preliminary plat.* The preliminary plat shall be designed in compliance with the provisions of section 78-6, be drawn accurately to a scale of preferably not more than 100 feet to the inch, and shall show or be accompanied by the following information:

(1) A key map showing the platted area in relation to the surrounding areas.

(2) Plans of proposed utility layouts (sewers, storm drains and water) showing connections to any existing or proposed utility systems. Contour lines shall be shown on this map. If no public sewage disposal system is available, percolation tests or test holes shall be made as directed by the city engineer or the health department having jurisdiction, and the results shall be submitted with the preliminary plat.

(3) The proposed use of the individual lots in the platted area.

(4) The dimensions and area of the individual lots and their average frontage and area.

(b) *Final plat.* The final plat shall be prepared as required by the subdivision control act, being Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended.

(Code 1965, Sec. 22.04)

Sec. 78-6. Lot sizes in relation to improvements.

(a) *General provisions.* It is the intent of this chapter to ensure that the density of all future subdivision development shall be directly related to carefully selected service areas shown on the service area map as primary, secondary, private and industrial service areas. The map is incorporated into and made a part of this chapter by reference. A copy of the map shall be kept on file in the clerk's office. Primary service areas are those areas in the city and the surrounding area which were on October 7, 1963, provided with or where the city has agreed it will provide public sewer, public water and public electric services. Secondary service areas are those areas in the city and the surrounding area which are now provided with or where the city has agreed it will provide public water and electric services but not public sewer services. Private service areas are those areas where neither public water nor public sewer are provided and where there are no agreements or plans to provide such services. The nonresidential service area is reserved for industrial use. For the purpose of this chapter, subdivisions shall be classified as complete utility, partial utility, potential utility or private service subdivisions. For reasons of health and sanitation, the minimum required area of each lot shall vary according to the type of subdivision, the minimum requirements increasing as the availability of the various public services decreases. In this way, it is hoped that, with the future development of the city and the increasing concentration of population, serious dangers to health will be avoided.

(b) *Complete utility subdivision--primary service area.* A complete utility subdivision is a subdivision in the primary service area in which arrangements have been made for both public water service and sewage disposal by a public utility system and for the other city services required by this chapter. The minimum average frontage of lots in such subdivision at the building line shall be 70 feet, and the minimum average lot area 8,400 square feet.

(c) *Partial utility subdivision--primary service area.* A partial utility subdivision is a subdivision in which arrangements have been made for either public water service or sewage disposal by a public utility system, but not for both, and for the other city services required by this chapter in primary service areas. The minimum average lot frontage of all lots in such subdivisions at the building line shall be 80 feet, and the minimum lot area shall be 10,000 square feet.

(d) *Potential utility subdivision--primary service area.* A potential utility subdivision is a subdivision in which at the time of platting neither public water nor sewage disposal by a public utility system can be immediately obtained, but where other city services required by this chapter for partial utility subdivisions are provided. If the potential utility subdivision is located in a primary service area so that it is known that both public water and sewage disposal by a public utility system will eventually become available, the minimum average frontage of all lots at the building line shall be 90 feet and the minimum lot area shall be 13,500 square feet.

(e) *Potential utility subdivision--secondary service area.* If a potential utility subdivision is located in a secondary service area, where it is or can be served with public water but not with sewage disposal by a public utility system, the minimum average frontage of all lots at the building line shall be 110 feet and the minimum lot area shall be 18,000 square feet.

(f) *Private service subdivision--private service area.* A private service subdivision is one located outside of either the established primary or secondary service areas so that neither public water or sewage disposal by a public utility system is furnished or contemplated and there are no plans or agreements by any utilities to serve them with water or sewers. The minimum average frontage of lots at the building line shall be 165 feet, and the minimum lot area shall be 35,000 square feet.

(Code 1965, Sec. 22.05)

Sec. 78-7. Improvements required in complete utility subdivisions.

Prior to the granting of final approval for a complete utility subdivision, the subdivider shall either have agreements with the city for the installation of the improvements listed in this section or, in lieu of agreements, provide bonds to install such improvements within three years. The following improvements are required:

(1) *Pavement and curbs.* A 36-foot graded street, surfaced according to city specifications with asphalt or an equally satisfactory surfacing with concrete curbs and gutters, as approved by the city engineer.

(2) *Water.* A public water supply of sufficient size, approved by the city engineer, available to each lot within the subdivision, together with a contract for the installation and maintenance and operation of approved fire hydrants in locations approved by the city.

(3) *Sewers and drainage.* Adequate provision shall be made for culverts, catch basins, storm sewers and sanitary sewers properly connected to or provisions made for connection to an approved system, as approved by the city engineer.

(4) *Sidewalks.* Five-foot sidewalks shall be installed by the developer in accordance with specifications of the city, subject to inspection and approval by the city engineer.

(5) *Shade trees.* Shade trees, at least one to a lot, but not closer than 50 feet from trunk to trunk, of a type, size and location approved by the city engineer.

(6) *Topsoil.* No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be distributed and stabilized by seeding or planting as specified by the city engineer.

(7) *Street names.* Signs shall be placed at all intersections within or abutting the subdivision. Type and location shall be approved by the city engineer.

(Code 1965, Sec. 22.06)

Sec. 78-8. Improvements required in partial utility subdivisions.

In a partial utility subdivision the same improvements are required as in a complete utility subdivision except that:

(1) If a public utility water system is not available, in lieu of the requirements of section 78-7(2), individual wells may be used provided the location and construction of the wells are approved by the city engineer or the health department having jurisdiction; or

(2) If the services of a public utility sanitary sewer system are not available, in lieu of requirements of section 78-7(3), sewage disposal installations may be used, provided they are approved by the city engineer or the health department having jurisdiction.

(Code 1965, Sec. 22.07)

Sec. 78-9. Variations in complete and partial utility subdivisions.

If the average width of all lots in a complete or partial utility subdivision in the primary service area exceeds 90 feet, improvement standards may vary with the density of development to encourage larger lot sizes as follows: A five-foot sidewalk on one side of the street may be permitted instead of two sidewalks.

(Code 1965, Sec. 22.08)

Sec. 78-10. Improvements required in potential utility subdivisions.

The following improvements are required in a potential utility subdivision:

(1) *Pavement and curbs.* Same as section 78-7.

(2) *Sidewalks.* Same as section 78-9.

(3) *Other provisions.* Arrangements shall be made at the time the plat receives final approval for the future installation of both public water and sewage disposal by a public utility system in the primary service area and future installation of public water by a public utility system in the secondary service area. Installation of fire hydrants, adequate storm sewers and topsoil protection as called for in section 78-7 are required. Performance or cash bonds may be required to ensure compliance.

(Code 1965, Sec. 22.09)

Sec. 78-11. Variations in potential utility subdivisions.

If the average width of all lots in a potential utility subdivision in the secondary service area exceeds 150 feet and the average lot area exceeds 30,000 square feet, the planning commission may vary these standards in proportion to increased lot sizes as follows: Sidewalk provisions may be waived unless needed to provide access to schools or to continue a walk on an existing street.

(Code 1965, Sec. 22.10)

Sec. 78-12. Improvements required in private service subdivisions.

The following improvements are required in a private service subdivision: Roads. A properly graded, drained and seal coated road, as approved by the city engineer, with a minimum width of 24 feet, valley gutters and with concrete, curbs and gutters at the intersections shall be provided.

(Code 1965, Sec. 22.11)

Sec. 78-13. Variances.

(a) If the subdivider can clearly demonstrate that literal enforcement of this chapter is impractical or will impose undue hardship in the use of his land because of peculiar conditions pertaining to his land, the council may permit such variance as, in its sound discretion, it believes to be reasonable and within the general purpose and policy of this chapter.

(b) In making the findings required in subsection (c) of this section, the council 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 subdivisions and variances on traffic conditions in the vicinity.

(c) No variance shall be granted unless the council finds that:

(1) 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 land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(3) The granting of the variance will not be detrimental to the public welfare or be injurious to property in the area in which the property is situated.

(d) A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the planning commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

(Code 1965, Sec. 22.14)

Chapters 79—81

RESERVED

Chapter 82

TRAFFIC AND VEHICLES*

***Cross reference(s)--**Offenses, ch. 54; parks and recreation, ch. 58; planning, ch. 62; streets, sidewalks and other public places, ch. 74; vehicles for hire, ch. 90.

State law reference(s)--Michigan Vehicle Code, MCL 257.1 et seq., MSA 9.1801 et seq.; regulation by local authorities, MCL 257.605, 257.606, 257.610, MSA 9.2305, 9.2306, 9.2310.

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ARTICLE I. IN GENERAL

Sec. 82-1. Findings of fact.

The city finds that a significant number of traffic arrests and traffic accidents in the city involve drivers who were operating a motor vehicle while under the influence of alcohol and/or controlled substances. In addition, the city finds that in traffic accidents involving drivers who were operating a motor vehicle while under the influence of alcohol and/or controlled substances there is a greater likelihood of personal injury and property damage. As a result of these determinations, a greater operational and financial burden is placed upon the city's police, firefighting and rescue services by persons who are operating a motor vehicle while under the influence of alcohol and/or controlled substances.

(Ord. No. 771, Sec. 1, 9-21-92)

Sec. 82-2. Emergency responses.

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

Emergency response means the dispatching of police personnel and equipment, firefighters and equipment or emergency medical personnel and equipment or any combination thereof to the scene of an incident.

Expense of an emergency response means the actual and reasonable costs incurred by the city in making an appropriate emergency response to the incident, including the costs of providing police, firefighting, rescue and emergency medical services at the scene of the incident, but shall include only those costs directly arising because of the response to the particular incident.

Incident means an occurrence, accident or situation caused by the negligent operation of a motor vehicle while the driver was under the influence of alcohol and/or drugs which results in injury to a person, including the driver, or property.

Wrongful conduct means conduct causing injury to any person or property or conduct in violation of local ordinance or state statute.

(b) *Negligent operation of motor vehicle; influence of alcohol and/or drugs; wrongful conduct; liability.* Any person who is under the influence of alcohol or any drug, or the combination of alcohol and drugs, whose negligent operation of a motor vehicle while under that influence proximately causes any incident requiring and resulting in an emergency response, and any person whose wrongful conduct proximately causes any incident requiring and resulting in an emergency response shall be liable for the expenses of an emergency response by the city to the incident.

(c) *Influence of alcohol or drug; inability to operate motor vehicle; presumptions.* For purposes of this section, a person is under the influence of alcohol or any drug, or the combined influence of alcohol and drugs, when his physical and/or mental abilities are impaired to a degree that he no longer has the ability to operate a motor vehicle with the caution and care

characteristic of a sober person of ordinary prudence. For purposes of this chapter, the presumptions contained in MCL 257.625 et seq., MSA 9.2325, shall apply.

(d) *Charge against person liable; collection of debt.* The expenses of an emergency response shall be charged against the person violating subsection (b) of this section. The charge constitutes a debt of that person to the city and is collectable by the city in the same manner as in the case of an obligation under a contract, expressed or implied, except that liability for the expenses provided for in this section shall not be insurable, and no insurance policy shall provide or pay for the expenses.

(e) *Billing.* The chief of police, or his designee, may within ten days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal service to the person liable for the expenses, as enumerated under this chapter. The bills shall require full payment in 30 days from the date of service.

(f) *Failure to pay; city attorney to sue to recover.* Any failure by a person described in this section as liable for the expenses of an emergency response to pay the bill submitted by the city treasurer within 30 days of service of the bill shall render such matter in default. The city attorney or his designate shall commence a civil suit on behalf of the city to recover the expenses, court costs and attorney fees.

(Ord. No. 771, Sec. 3, 9-21-92)

State law reference(s)--Authority for city to adopt ordinance to collect emergency costs, MCL 41.806a, MSA 5.2640(6a).

Sec. 82-3. Authorized truck routes.

(a) Trucks and other commercial vehicles may operate only on the following streets in the city:

(1) U.S. 31 Business Route, being LaGrange Street from south city limits to Phillips Street; Phillips Street from intersection with LaGrange Street to Broadway; Broadway from intersection with Phillips Street to Conger Street; Dyckman Avenue, North Shore Drive from intersection with Dyckman Avenue north to city limits.

(2) M-43, being Bailey Avenue from south city limits north to Phillips Street; Phillips Street from Bailey Avenue to intersection with LaGrange Street.

(3) Phoenix Street from intersection with Broadway east to city limits.

(4) Aylworth Avenue from LaGrange Street to Indiana Avenue.

(5) Water Street from the west to intersection of Water Street with Kalamazoo Street; Kalamazoo Street from the intersection with Water Street and Phoenix Street, north to the junction with Williams Street (Williams Street is designated on the plat as being Water Street but is now known as Williams Street); thence northerly on Williams Street (formerly Water Street) to the junction with Dyckman Avenue.

(6) Indiana Avenue at the intersection of Aylworth Avenue north to Edgell Street, then west to the end.

(7) Elkenburg Street at the intersection of Indiana Avenue, west to St. Joseph Street.

(8) Kalamazoo Street at south city limits north to the intersection of Aylworth Avenue.

(9) Aylworth Avenue at the intersection of Bailey Avenue (M-43) west to LaGrange Street (Business I-196).

(10) Dunkley Avenue at the intersection of Dyckman Avenue north, then east to East Wells Street, continuing east to U.S. 31 (Blue Star Memorial Highway).

(b) Trucks and other commercial vehicles whose weight, plus the weight of the load being carried, is more than 10,000 pounds are prohibited from operation on all of the streets of the city, except on those streets named in this section; provided, however, that such prohibition shall not apply to such trucks or other commercial vehicles while actually being used and operated to make a bona fide delivery or pickup on a restricted street; provided further that any such truck or other commercial vehicle shall operate on a nonrestricted street to a point as close as practicable to such point of delivery or pickup before entering a restricted street to make such delivery or pickup on a restricted street, and shall then return to the nearest nonrestricted street by using the shortest practicable route.

(c) Appropriate signs shall be erected designating restricted streets.

(d) Any person who shall operate or cause to be operated a truck or other commercial vehicle in violation of any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties prescribed in section 1-13.

(Code 1965, Sec. 41.05)

Sec. 82-4. Vehicle insurance.

(a) *Evidence of vehicle insurance; production upon request of police officer.* The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the streets of this city or the operator of the motor vehicle shall produce, pursuant to subsection (b) of this section, upon the request of a police officer, evidence that the motor vehicle is insured under chapter 31 of Act No. 218 of the Public Acts of Michigan of 1956 (MCL 500.1301 et seq., MSA 24.13101 et seq.), as amended. An owner or operator of a motor vehicle who fails to produce evidence under this subsection when requested to produce that evidence is responsible for a civil infraction.

(b) *Certificate of insurance, prima facie evidence of insurance; contents.* A certificate of insurance, if issued by an insurance company, which certificate states that security which meets the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of Michigan of 1956 (MCL 500.3101, 500.3102, MSA 24.13101, 24.13102), as amended, is in force, shall be accepted as prima facie evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of

each person named on the policy, policy declaration, or a declaration certificate whose operation of the vehicle would cause the liability coverage of that insurance to become void.

(c) *Violation; penalty.* If an owner of a motor vehicle is determined to be responsible for a violation of subsection (a) of this section, the court in which the civil infraction determination is entered may require the person to surrender his operator's or chauffeur's license unless proof that the vehicle has insurance meeting the requirements of section 3102 of Act No. 218 of the Public Acts of Michigan of 1956 (MCL 500.3102, MSA 24.13102), as amended, is submitted to the court. If the court requires the license to be surrendered, the court shall order the secretary of state to suspend the person's license and shall forward the surrendered license and a certificate of civil infraction to the secretary of state. Upon receipt of the certificate of civil infraction and the surrendered license, the secretary of state shall suspend the person's license beginning with the date on which a person is determined to be responsible for the civil infraction for a period of 30 days or until proof of insurance which meets the requirements of section 3102 of Act No. 218 of the Public Acts of Michigan of 1956, as amended, is submitted to the secretary of state, whichever occurs later. If the license is not forwarded, an explanation of the reason why it is not forwarded shall be attached. A person who submits proof of insurance to the secretary of state under this subsection shall pay a service fee of $10.00 to the secretary of state. The person shall not be required to be examined, as set forth in section 320c of the Michigan Vehicle Code (MCL 257.320c, MSA 9.2020(3)).

(d) *False evidence; penalty.* An owner or operator of a motor vehicle who knowingly produces false evidence under this section is guilty of a misdemeanor, punishable by a fine of not less than $200.00 or more than $500.00 or imprisonment for not more than 90 days, or both.

(e) *Points not to be entered on record.* Points shall not be entered on a driver's record pursuant to section 320a of the Michigan Vehicle Code (MCL 257.320a, MSA 9.2020(1)), as amended, for a violation of this section.

(f) *Foreign vehicles; inapplicability.* This section does not apply to the owner or operator of a motor vehicle that is registered in a state other than this state or a foreign country or province.

(Code 1965, Sec. 41.07)

Sec. 82-5. Disposition of wrecked or discarded vehicles.

No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any unregistered or unlicensed; partially dismantled, non-operating, wrecked, junked or discarded vehicle to remain on such property longer than 48 hours; and no person shall leave any such vehicle on any property within the city for a longer time than 48 hours; except that this section shall not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(Code 1965, Sec. 14.05(d); Ord. No. 743, Sec. 1, 6-13-91)

Secs. 82-6--82-25. Reserved.

ARTICLE II. UNIFORM TRAFFIC CODE AND MICHIGAN VEHICLE CODE*

***State law reference(s)--**Authority to adopt the Uniform Traffic Code by reference, MCL 257.951, MSA 9.2651.

Sec. 82-26. Uniform Traffic Code Adopted.

(a) The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969,1969 PA 306, MCL 24.201 *et seq*., and made effective October 30, 2002 (the "Traffic Code"), as may subsequently be amended, is adopted by reference, as if fully set forth herein.

(b) References in the Traffic Code. References in the Traffic Code for to a "governmental unit" shall mean the City of South Haven.

(c) Copies of the Traffic Code shall be retained at the office of the City Clerk and be available to the public for inspection.

(d) Enforcement. The Traffic Code may be enforced by any public safety officer or other employee of the city authorized to enforce criminal ordinances or authorized to issue civil infractions.

(e) Penalties. The penalties provided by the Traffic Code are adopted by reference, provided, however, that the City may not enforce any provision of the Traffic Code for which the maximum period of imprisonment is greater than 93 days.

(f) Costs. When any person is found guilty of a misdemeanor or responsible for a civil infraction pursuant to this section, the judge or magistrate shall summarily determine and tax the costs of the action which shall include all expenses, direct and indirect, to which the City has been put in connection with the violation or infraction up to the entry of judgment

(Code 1965, Sec. 41.01(a); Ord. No. 753, Sec. 1, 3-26-92; Ord. No. 882, 6-19-00; Ord. No. 908, Sec. 1, 12-3-02; Ord. No. 1021, Sec 1, 09-08-2015)

Sec. 82-27. Michigan Vehicle Code Adopted.

(k) Pursuant to the provisions of the Home Rule Cities Act, Act No. 279 of the Public Acts of Michigan of 1909, as amended, MCL 117.1 *et seq*., the Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949, as amended, MCL 257.1 *et seq*., (the "Vehicle Code") as may subsequently be amended, is adopted by reference, as if fully set forth herein.

(l) References in the Vehicle Code. References in the Vehicle Code to a "governmental unit" shall mean the City of South Haven.

(m) Copies of the Vehicle Code shall be retained at the office of the City Clerk and be available to the public for inspection.

(n) Enforcement. The Vehicle Code may be enforced by any public safety officer or other employee of the City authorized to enforce criminal ordinances or authorized to issue civil infractions.

(o) Penalties. The penalties provided by the Vehicle Code are adopted by reference, provided, however, that the City may not enforce any provision of the Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

(Ord. No. 1021, Sec 1, 09-08-2015)

Sec. 82-28. Reserved.

Sec. 82-29. Metered parking.

(a) Where a parking meter is erected adjacent to a space marked for parking, such space shall be a metered parking space. No person shall stop a vehicle so as to occupy such space for a period of time longer than designated on the parking meter upon the deposit of a coin of United States currency of the denomination designated on the meter on the days and during the time the regulations apply as designated on the meter.

(b) Any person who violates this section shall have committed a civil infraction, and shall pay to the city a fine of $2.00. Such fine shall be paid within 24 hours of the time of the violation. If the fine is not paid within 24 hours, the fine shall be $5.00 for each period in which the motor vehicle is parked in violation of this subsection.

(Code 1965, Sec. 41.03)

Secs. 82-30--82-50. Reserved.

ARTICLE III. PARKING, STOPPING AND STANDING

DIVISION 1. GENERALLY

Sec. 82-51. Parking enforcement officer.

There is hereby established the position of a parking enforcement officer which shall be affiliated with the police department. The enforcement officer shall not be considered as a police officer as defined by law or the pension laws pertaining to police personnel. The parking enforcement officer shall have full authority to issue citations as provided for in this section and shall have further authority as may from time to time be designated by the city manager and the chief of police of the city.

(Code 1965, Sec. 41.03)

Sec. 82-52. Special no parking zones.

There shall be no parking in the following areas:

(1) *No stopping, standing or parking.*

Elkenburg	Kalamazoo Street to Indiana Ave.	Eastbound
Humphrey Street	West of Kalamazoo Street	Eastbound

(2) *No parking directly adjacent to schools.*

Monroe Street	At Indiana School	Westbound
Superior Street	At St. Basil's School	Eastbound
St. Joseph Street	At St. Basil's School	Southbound

(3) *No parking directly adjacent to parks.*

Monroe Blvd.	Monroe Park	Northbound
Monroe Street	Monroe Park	Westbound
South Haven Street	Monroe Park	Eastbound
Monroe Blvd.	Blue Stairs Beach Access	Southbound

(Ord. No. 753, Sec. 4(F-2), 3-26-92)

Sec. 82-53. Parking permitted with restrictions.

Parking shall be permitted in the following areas with the following restrictions:

(1) *No parking except on Sundays and holidays.*

Indiana Avenue	South of Cartwright Street

(2) *No parking after 9:00 p.m.*

Humphrey Street	West of Kalamazoo Street	Westbound

(3) *No parking from 8:00 a.m. to 4:00 p.m. on weekdays.*

Center Street	South of Michigan Avenue	Southbound
Kalamazoo Street	North of Aylworth Avenue	Southbound

(4) *Three-hour parking between the hours of 9:00 a.m. and 5:00 p.m. excluding Sundays and Holidays:*

Eagle Street	Both sides between Kalamazoo Street and Center Street
Phoenix Street	Both sides between Kalamazoo Street and Broadway Avenue
Quaker Street	Both sides between Kalamazoo Street to Center Street
Williams Street	Southerly side from 240 west of Center Street to 320 east of Center Street
Williams Street	Northerly side from Kalamazoo Street to 250 west of Center Street
Kalamazoo Street	Both sides between Huron Street and Phoenix Street
Kalamazoo Street	East side between Phoenix Street and Williams Street
Center Street	Both sides between Huron Street and Phoenix Street
Center Street	East side between Phoenix Street and Williams Street

(5) *Five-minute parking only.*

Williams Street	Parking limited on the northerly side of Williams Street at the two spaces closest to the entrance to Old Harbor Inn, 515 Williams Street; Suite 9

(6) *Parking prohibited between the hours of 2:30 a.m. through 6:00 a.m. during the period of March 16 to November 14.*

Eagle Street between Kalamazoo Street and Center Street, Phoenix Street from Kalamazoo Street to Broadway Avenue, Quaker Street from Kalamazoo Street to Center Street, Williams Street fro Kalamazoo Street to Dyckman Avenue, Kalamazoo Street from Huron Street to Williams Street, and Center Street from Huron Street to Williams Street

(7) *Parking prohibited between the hours of 1:00 a.m. and 7:00 a.m. during the period of November 15 to March 15 in accordance with Ordinance #760.*

Eagle Street between Kalamazoo Street and Center Street, Phoenix Street from Kalamazoo Street to Broadway Avenue, Quaker Street from Kalamazoo Street to Center Street, Williams Street fro Kalamazoo Street to Dyckman Avenue, Kalamazoo Street from Huron Street to Williams Street, and Center Street from Huron Street to Williams Street

(8) *Five-minute parking only.*

Hubbard Street	In front of Hartman School	Southbound

(9) *Fifteen-minute parking only.*

Erie Street	School Street to Broadway

(10) *Angle parking only.*

Center Street	Beside Lincoln School	Northbound
Center Street	North of Huron Street	
Kalamazoo Street	North of Water Street	Southbound
Lake Shore Drive		West side
Park Avenue	South of Dyckman Avenue	East side
Phoenix Street	West of Dyckman Park	
South Street		South side
Woodman Street	East of North Shore Drive	North side

(Ord. No. 753, Sec. 4, 3-26-92; Ord. No. 901, 7-15-02)

Sec. 82-54. Parking limit in city parking lots.

(a) No motor vehicle shall be parked or allowed to remain parked for a total of more than 24 consecutive hours in any portion of any city parking lot not governed by a more restrictive provision.

(b) This section is to be effective as to each city parking lot where notices are placed so as to be clearly visible to those properly entering any of the city parking lots.

(c) Any person who shall park a motor vehicle or allow a motor vehicle to remain parked in a city parking lot for longer than 24 consecutive hours shall have committed a civil infraction. The registered owner of any such vehicle shall be presumed to be responsible for such infraction.

(d) Any person found guilty of having violated this section shall be subject to a fine of not more than $100.00 plus costs.

(e) Any vehicle found parked or standing contrary to the provisions of this section shall be impounded by the police of the city and shall not be delivered to the owner or operator until the amount of $5.00 has been paid to the treasurer of the city for each day that such vehicle has been parked or allowed to remain standing on premises described in this section contrary to the provisions of this section.

(Code 1965, Sec. 41.02)

Secs. 82-55. Regulations Applicable to Golf Carts

The parking, stopping, and standing regulations provided in this Chapter, including those in the Uniform Traffic Code and the Michigan Vehicle Code, adopted by reference in this Chapter, shall also apply to golf carts operated in the City during periods allowed by resolution of the City Council, as if they are motor vehicles under such provisions.

(Ord. No. 1022, Sec 1, 09-08-2015)

Secs. 82-56--82-65. Reserved.

DIVISION 2. SEASONAL PARKING

Sec. 82-66. Parking fee.

(a) There is hereby imposed a fee for the privilege of parking on certain city streets and on certain city property. The city council shall set the area in which the fee shall be collected by resolution.

(b) The city council shall by resolution set the periods during which the parking fee shall be collected and the hours of each day that the parking fee shall be collected.

(c) Daily, weekly and annual parking stickers shall be issued in accordance with a fee schedule set by city council resolution. The stickers shall allow a vehicle to park in an area in which parking fees are required without any additional payment.

(d) Repealed.

(e) Repealed.

(f) The city manager is hereby authorized to place parking meters within certain areas of the city. The location of the parking meters and the rates charged by the parking meters will be set by council resolution.

(g) The owner of any vehicle without a parking sticker found parked in an area requiring a parking sticker shall be issued an envelope in which to pay the daily parking fee. The fee must be paid within 48 hours of receipt of the envelope. If the parking fee is not paid within the required 48 hours, the vehicle will be considered to have been parked illegally. The fine for illegal parking shall be $25.00.

(h) Any vehicle found parked in a parking meter zone without paying the appropriate fee or without displaying the appropriate parking sticker shall be considered to be parked illegally. The fine for illegal parking shall be $25.00.

(Ord. No. 719, Sec. 1, 3-6-89; Ord. No. 932, Sec. 1, 05-16-05)

Sec. 82-67. Fee system.

A seasonal parking fee system is to be in effect from May 15 through September 15 with the following provisions:

(1) A daily parking fee system shall be instituted at:

a. North Beach.

b. South Beach.

c. Packard Park.

d. Dyckman Avenue Beach Access west of North Shore Drive.

e. Water Street west of Maple Street.

f. Woodman Street west of North Shore Drive.

(2) No parking from 10:00 p.m. until 4:00 a.m. at:

a. Packard Park.

b. Dyckman Avenue access west of North Shore Drive.

c. Woodman Street west of North Shore Drive.

(3) No parking from 11:00 p.m. until 4:00 a.m. at:

a. North Beach west side of Lake Shore Drive.

b. South Beach.

c. Water Street west of Maple Street.

(4) Seasonal sticker parking only at:

a. Avery Street.

b. Esplanade Street.

c. Grand Boulevard.

d. Kalamazoo Avenue.

(5) No parking regulation to be established for east or west bound traffic between Monroe Boulevard and St. Joseph Street on:

a. North side of Clinton Street.

b. South side of Van Buren Street.

c. North side of Superior Street.

(6) No parking regulation be established for east bound traffic on the south side of Water Street between the South Beach and St. Joseph Street.

(7) Hourly parking meters to be located at:

a. North Beach southernmost eight parking spaces on Lake Shore Drive.

b. Water Street within the former Coast Guard parking lot.

c. Water Street two westerly parking spaces.

d. South Beach spaces located along Channel excluding handicapped spaces.

(8) Seasonal beach parking system is to be in effect from May 15 to September 15 yearly.

(Ord. No. 765, 4-20-92; Ord. No. 806; Ord. No. 932, Sec. 2, 05-16-05; Ord. No. 941, 06-17-06)

Secs. 82-68--82-80. Reserved.

DIVISION 3. PARKING VIOLATIONS BUREAU

Sec. 82-81. Established.

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 city manager.

State law reference(s)--Authority to establish a parking violations bureau, MCL 600.8395, MSA 27A.8395.

Sec. 82-82. Parking citation.

The issuance of a parking citation by a police officer of the city shall be deemed an allegation of a parking violation. Such citation shall indicate the length of time in which the person to whom the citation was issued must respond to 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 citation was issued and advise that a warrant for the arrest of the person to whom the citation was issued will be sought if such a person fails to respond within the time prescribed.

Sec. 82-83. Procedure.

A parking citation may be settled at the parking violations bureau 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 matter relating to such alleged violation. No person shall be required to dispose of a parking citation at the parking violations bureau, and all persons shall be entitled to have any such citation adjudicated by a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any parking citation at the parking violations bureau by payment of the applicable penalty prescribed in section 82-86 shall not prejudice him or in any way diminish the rights, privileges and protection accorded to him by law.

Sec. 82-84. Failure to respond to citation.

If the person to whom a citation is issued fails to settle and pay the violation claim within the prescribed time, or within a period of time specified in a final notice, if one had been served, then the police department is authorized to cause a notice to appear to be served upon the alleged violator and to file a complaint and to prosecute the violator.

(Code 1965, Sec. 41.04(e)3)

Sec. 82-85. Evidence of liability.

That a motor vehicle which is illegally parked is registered with the secretary of state in the name of the alleged violator shall be considered prima facie evidence that the alleged violator was in control or was the operator of the motor vehicle at the time of violation.

(Code 1965, Sec. 41.04(e)4)

Sec. 82-86. Schedule of penalties.

The violation claim described in a citation issued pursuant to this section may be settled and paid in the respective amount set forth in the following schedule. If payment is made prior to the mailing of a final notice, the following amounts shall be accepted as settlement:

	Traffic and Parking Fees	*Fine Within 48 Hours*	*2-15 Days*	*Over 15 days*
1	Parking on a sidewalk	$10.00	$20.00	$30.00
2	Parking in front of a public or private driveway	10.00	20.00	30.00
3	Parking within 15 feet of a fire hydrant	10.00	20.00	30.00
4	Parking on a crosswalk	10.00	10.00	30.00
5	Parking within 20 feet of a crosswalk at intersection	10.00	20.00	30.00
6	Parking 30 feet upon the approach of an	10.00	20.00	30.00

	intersection beacon, stop sign or traffic control signal located at the side of the roadway			
7	Displaying vehicle for sale on city property	10.00	20.00	30.00
8	Parking left wheel to curb on a 2-way street	10.00	20.00	30.00
9	Abandoned vehicle on street	10.00	20.00	30.00
10	Parking more than 12 inches from curb	10.00	20.00	30.00
11	Motor running unattended	10.00	20.00	30.00
12	Parking within intersection	10.00	20.00	30.00
13	Parking within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance where posted	10.00	20.00	30.00
14	Parking alongside or opposite any street excavation or obstruction when such parking would obstruct traffic	10.00	20.00	30.00
15	Parking on the roadway side of any vehicle parking at the edge of the curb or street (double parking)	10.00	20.00	30.00
16	Parking, stopping or standing of a vehicle where the same is prohibited or restricted	10.00	20.00	30.00
17	Overtime parking	10.00	20.00	30.00
18	Parking in handicapped zone	50.00	75.00	100.00
19	Second offense, same date	Double the amount above		

(Code 1965, Sec. 41.04(f); Ord. No. 748, Sec. 1, 1-20-92; Ord. No. 780, Sec. 1, 6-21-93; Ord. No. 984, Sec. 1, 08-16-2010)

Sec. 82-87. Payment after final notice.

If payment of a settlement penalty is not made within ten days after the date of mailing of a final notice, the settlement amount shall be double the amount shown in the schedule at section 82-86.

(Ord. No. 748, Sec. 2, 1-20-92)

Sec. 82-88. Judicial disposition.

If payment is not made within the time prescribed in the final notice, and a notice to appear has been served and a complaint filed in the district court, payment of any fine and costs shall be in such amounts as may be determined and established by the court.

(Code 1965, Sec. 41.04(f)3)

Chapters 83—85

RESERVED

Chapter 86

UTILITIES*

***Cross reference(s)--**Buildings and building regulations, ch. 10; planning, ch. 62; solid waste, ch. 70; streets, sidewalks and other public places, ch. 74; subdivisions, ch. 78.

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ARTICLE I. IN GENERAL

Secs. 86-1. Definitions.

Public Utilities shall mean all the utility services provided by the City of South Haven or a board or department of the City or by an authority of which the City is a constituent member including without limitation, public water service, public sanitary sewer service and treatment, electric service, power, light and heat

(Ord. No. 843, Sec. 1, 4-21-97)

Sec. 86-2. Liens and enforcement.

(a) Except as may be prohibited by law or by subsection (6) of this section, all rates, fees and charges for public utilities furnished to premises shall be a lien upon the premises served which lien shall become effective immediately upon supplying the public utility service to the premises.

(b) If a tenant is occupying the premises and the tenant is responsible for payment of the rates, fees or charges relating to any public utility, then the owner/landlord of the premises may give notice in writing to the City in the form of an affidavit stating the following:

(1) The address or other appropriate description of the premises or a specifically designated portion of the premises which is being leased.

(2) The name and address of the owner/landlord of the premises.

(3) The name and address of the tenant.

(4) The specific public utilities for which it is the responsibility of the tenant to pay.

(5) The date when the lease will terminate, under its terms, if established and shall include a copy of the lease, if there is a written lease.

(6) That the owner/landlord will give 20 days' written notice prior to the termination of the lease.

Upon receipt of such affidavit, the rates, fees and charges for the public utilities designated in the notice shall not become a lien against the premises after the date such notice is received. However, no further service of such public utilities shall be provided to the premises until the tenant pays a deposit, as may be established from time to time by the City for such public utility service.

(c) Rates, fees and charges for any public utility which are delinquent in payment for a period of six (6) months shall be certified by the City Manager to the City Assessor who shall then enter the lien for such delinquent rates, fees and charges on the next tax roll against the premises to which the public utility services were supplied. The certification for delinquent charges shall identify the premises involved, the public utility (e.g., sewer, water or electricity) for which payment is delinquent, and the delinquent rates, fees and charges. Such certification

may be amended to reflect any additions to or reduction in the delinquent amount until the confirmation of the final tax roll.

(d) Once the lien is placed upon the tax roll, it shall be enforced and collected in the same manner as real property taxes as provided by law for the collection of property taxes and the enforcement of tax liens.

(Ord. No. 843, Sec. 1, 4-21-97)

Sec. 86-3. Other enforcement methods.

The provisions of Section 86-2 shall be cumulative and shall not be deemed to preclude or otherwise restrict other lawful enforcement methods relating to delinquent utility service payments, including but not limited to, legal actions for collection, the shut-off or discontinuance of utility services for nonpayment in accordance with the policies and regulations from time to time established by the City, and/or the requirement for and use of utility service deposits.

(Ord. No. 843, Sec. 1, 4-21-97)

Secs. 86-4--86-25. Reserved.

ARTICLE II. ELECTRIC SERVICE

DIVISION 1. GENERALLY

Secs. 86-26--86-35. Reserved.

DIVISION 2. RATES

Sec. 86-36. Electric rate structure.

The following are the electrical charges and rates for electrical service customers:

(1) *Residential customers.* Basic electric charge: $5.50/month; power usage rate: $0.104/kWH; energy optimization surcharge $0.001612/kWH.

(2) *Commercial customers.* Basic electric charge: $6.80/month; power usage rate: $0.1100/kWH; energy optimization surcharge $0.002126/kWH.

(3) *Commercial power customers.* Power usage rate: .0580/kWH; demand charge: $12.32/kw; minimum demand: 15 kw/month; primary metered customers: rebate of two percent of kWH usage; energy optimization surcharge $0.002126/kWH.

(4) *Industrial and municipal customers.* Power usage rate: .0482/kWH; demand charge: $12.32/kw; minimum demand: 15 kw/month; primary metered customers: rebate of two percent of kWH usage; energy optimization surcharge $0.002126/kWH.

(5) *Unmetered Security/Street Lighting.* 150 Watt Lights - $9.00/Month. 250 Watt Lights - $15.00/Month.

The Energy Optimization Surcharge shall terminate on December 31, 2015. Monthly electric bills will be increased or decreased to offset fuel charge adjustments billed to the City by the supplier and for PJM open access transmission tariff charges that exceed $500,000 per year as billed to the City by the supplier.

(Res. of 10-21-90; Ord No. 944, Sec. 1, 06-19-06; Ord No. 956, Sec. 1, 06-18-07; Ord. No. 964, Sec. 1, 06-16-08; Ord. No. 971, Sec. 1, 06-15-09; Ord. No. 979, Sec. 1, 12-21-09; Ord. No. 982, Sec. 1, 06-21-2010; Ord. No. 992, Sec. 1, 06-20-2011; Ord. No. 1002, Sec. 1, 06-17-2013; Ord. No. 1012, Sec. 1, 06-16-2014; Ord. No. 1018, Sec. 1, 06-15-2015; Ord. No. 1019, Sec. 1, 07-20-2015)

Charter reference(s)--Establishment of utility rates, Sec. 13.4.

Secs. 86-37--86-55. Reserved.

ARTICLE III. WATER SERVICE

DIVISION 1. GENERALLY

Sec. 86-56. Private water supply systems.

(a) *Permit required.* No person shall install or maintain any private water supply system within the city without first obtaining a permit therefore from the city council. Such permit will not be issued unless such water supply system meets the requirements of Act No. 98 of the Public Acts of Michigan of 1913 (MCL 325.201 et seq., MSA 14.411 et seq.), as amended, and the approval of the county health department.

(b) *Interconnection of private and municipal water systems; permit required.* There shall be no interconnection between any private water supply system and the municipal water system without first obtaining a permit therefore from the city council. Such permit shall not be issued unless such water supply system and the associated interconnection equipment meet the requirements of Act No. 98 of the Public Acts of Michigan of 1913 (MCL 325.201 et seq., MSA 14.411 et seq.), as amended, and the approval of the county health department.

(c) *Installation of private wells.* Construction of any well must meet the requirements of MCL 333.12701 et seq., MSA 14.15(12701) et seq., as amended.

(d) *Penalty.* Any person who violates, omits, neglects or refuses to comply with the provisions of this section shall be fined not to exceed $100.00 or imprisoned not to exceed 90 days, or both, in the discretion of the court for each offense.

(Code 1965, Sec. 7.03)

Sec. 86-57. Cross connections.

(a) *Adoption of state department of public health rules.* The city adopts by reference the water supply cross connection rules of the state department of public health, being R 325.11401 to R 325.11407 of the state administrative code, as amended.

(b) *Inspections.* It shall be the duty of the city to cause inspections to be made of all properties served by the public water supply where cross connections with the public water

supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the city and as approved by the state department of public health.

(c) *Right of city to access for inspection; refusal deemed evidence of cross connections.* The representative of the city shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system thereof for cross connections. On request, the owner, lessee or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

(d) *Discontinuance of service until elimination of cross connection.* The city is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this section.

(e) *Protection of potable water supply.* The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination, as specified by this section and by the state and city plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as: water unsafe for drinking.

(f) *Section supplementary to state plumbing code.* This section does not supersede the state plumbing code, but is supplementary to it.

(Code 1965, Sec. 7.04)

Sec. 86-58. Emergency Water Use Restrictions

(a) During periods when the use of public water approaches the capacity of the public water system, the city manager or public works director is hereby authorized to declare a Water Use Restriction, which is a prohibition of non-essential use of water from the public water system.

(b) Upon declaration of a Water Use Restriction, the Water Use Restriction shall be publicized using local media such as radio, internet and newspaper advertising.

(c) Upon declaration of a Water Use Restriction, there may be a prohibition on lawn irrigation and washing of vehicles with water from the public water system. An enforcement officer designated by the city manager or public works director is authorized to notify in writing the owner, occupant or agent of any property, parcel or area on which a violation of implemented restrictions is observed. This notification may be provided by giving a written notice to the owner, occupant or agent, or by posting a written notice on the property in a conspicuous place.

(d) Such notice shall include a statement that there is a prohibition on non-essential use of water from the public system, the date of effect of the prohibition, the date and time that the

notice was posted, and the consequence should the owner fail to comply with the notice to cease lawn irrigation and vehicle washing with water from the public system.

(e) Upon notification, the owner or occupant of a property irrigating a lawn or washing a vehicle with water from the public system shall be responsible for a municipal civil infraction and subject to the enforcement procedures and penalties as set forth in section 1-16.

(g) Upon notification, the water department is authorized to shut off water service to a property upon which lawn irrigation or washing of vehicles from the public water system is taking place.

(Ord. No. 940, 04-03-06)

Secs. 86-59--86-70. Reserved.

DIVISION 2. RATES

Sec. 86-71. Standby charge.

The water standby service fee is based on the size of the water meter used or installed, is the minimum charge, is payable in advance, and is additional to the charge for water use. Such charge is to include the cost of debt service, capital replacement funding, capital improvement and the readiness to serve costs. Such charge is made whether or not the water meter is turned off. Such charges shall be as follows:

	Meter Size Inches	Plant Replacement	City Capital Improvement	Capital Replacement	Ready to Serve	Total
(1)	5/8" or 3/4" meter	$19.46	$4.12	$1.96	$6.89	$32.42
(2)	1" meter	$25.97	$5.49	$2.62	$9.18	$43.26
(3)	1 1/4" meter	$37.14	$7.86	$3.71	$13.13	$61.84
(4)	1 1/2" meter	$48.36	$10.23	$4.86	$17.08	$80.53
(5)	2" meter	$69.08	$14.63	$6.93	$24.42	$115.06
(6)	3" meter	$121.10	$25.58	$12.14	$42.74	$201.57
(7)	4" meter	$181.40	$38.39	$18.25	$64.11	$302.15
(8)	6" meter	$285.01	$60.30	$28.65	$100.73	$474.69
(9)	8" meter	$447.94	$94.88	$44.98	$158.35	$746.15

(Code 1965, Sec. 7.02; Ord. No. 709, Sec. 1(I), 4-14-88; Ord. No. 781, Sec. 1, 7-1-93; Ord. No. 838, 9-1-96; Ord. No. 842, Sec. 1, 4-7-97; Ord. No. 860, 7-1-98; Ord. No. 866, 10-1-98; Ord. No. 887, Sec. 1, 6-18-01; Ord. No. 902, 08-19-02; Ord. No. 944, Sec. 2, 06-19-06; Ord No. 956; Sec. 2, 06-18-07; Ord. No. 962, Sec. 1, 03-17-08; Ord. No. 964, Sec. 2, 06-16-08; Ord. No. 966, Sec. 1, 08-04-08; Ord. No. 971, Sec. 2, 06-15-09; Ord. No. 982, Sec. 2, 06-21-2010; Ord. No. 992, Sec. 2, 06-20-2011; Ord. No. 1002, Sec. 2, 06-17-2013; Ord. No. 1012, Sec 2, 06-16-2014; Ord. No. 1018, Sec. 2, 06-15-2015)

Sec. 86-72. Water usage for city.

In addition to the standby charge for water, a usage charge is levied which is based solely on the amount of water which is registered on the water meter each billing period. This rate shall be as follows:

(1)	1st 2,500 cubic feet:	$2.22 per 100 cubic feet
(2)	Over 2,500 but not over 25,000 cubic feet	$2.01 per 100 cubic feet
(3)	Over 25,000 cubic feet	$1.95 per 100 cubic feet

(Code 1965, Sec. 7.02; Ord. No. 742, Sec. 1A, 7-1-91; Ord. No. 781, Sec. 1, 7-1-93; Ord. No. 838, Sec. 1, 9-3-96; Ord. No. 842, Sec. 1, 4-7-97; Ord. No. 860, Sec. 1, 7-1-98; Ord. No. 872, 7-1-99; Ord. No. 886, Sec. 1, 8-7-00; Ord. No. 887, Sec. 1, 6-18-01; Ord. No. 902, 08-19-02; Ord. No. 944, Sec. 2, 06-19-06; Ord No. 956; Sec. 2, 06-18-07; Ord. No. 964, Sec. 2, 06-16-08; Ord. No. 971, Sec. 2, 06-15-09; Ord. No. 982, Sec. 2, 06-21-2010; Ord. No. 992, Sec. 2, 06-20-2011; Ord. No. 1002, Sec. 2, 06-17-2013; Ord. No. 1012, Sec. 2, 06-16-2014; Ord. No. 1018, Sec. 2, 06-15-2015)

Sec. 86-73. Rural water usage rate, outside the city limits.

Township water usage rates will be collected at the same rate as City usage rates. Township standby service fees will be as established by the Casco and South Haven Townships Water and Sewer Authority but will include Capital Replacement/Improvement fee and the readiness to serve fee as established by this ordinance.

(Code 1965, Sec. 7.02; Ord. No. 742, Sec. 1B, 7-1-91; Ord. No. 781, Sec. 1, 7-1-93; Ord. No. 838, Sec. 1, 9-3-96; Ord. No. 842, Sec. 1, 4-7-97; Ord. No. 860, Sec. 1, 7-1-98)

Secs. 86-74--86-95. Reserved.

ARTICLE IV. SEWER SERVICE

DIVISION 1. GENERALLY

Sec. 86-96. Treatment by city by special agreement.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to equitable payment therefore by the industrial concern as set forth in formula.

(Code 1965, Sec. 6.14)

Sec. 86-97. Protection from damage.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a

part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code 1965, Sec. 6.15)

Sec. 86-98. Powers and authority of inspectors.

(a) The city superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. The city superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties referred to in this section, the city superintendent or 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. The city shall indemnify the company against loss or damage to its property by 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 as required by this article.

(Code 1965, Sec. 6.16)

Sec. 86-99. Privies and septic tanks.

Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Code 1965, Sec. 6.03)

Secs. 86-100--86-110. Reserved.

DIVISION 2. PRIVATE SEWAGE DISPOSAL

Sec. 86-111. Required where public sewer not available.

Where a public sanitary or combined sewer is not available under the provisions of section 86-115, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(Code 1965, Sec. 6.06(a))

Sec. 86-112. Permit; application; fee.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Board of Public Utilities. The application for such a permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the city. A permit

and inspection fee of 0.1 percent of the estimated construction cost, but no less than $50.00 nor more than $1,000.00 shall be paid to the city treasurer at the time the application is filed.

(Code 1965, Sec. 6.06(b))

Sec. 86-113. Inspections.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the city representative. 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 city when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within three working days of the receipt of notice by the city.

(Code 1965, Sec. 6.06(c))

Sec. 86-114. Specifications.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the city. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than required by the county health department. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(Code 1965, Sec. 6.06(d))

Sec. 86-115. Installation of suitable toilet facilities and connection to public sewer upon notice.

The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city are hereby required at their expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after the date of official notice to do so.

(Code 1965, Sec. 6.04)

Sec. 86-116. Connection of private system to public sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 86-115, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Code 1965, Sec. 6.06(e))

Sec. 86-117. Maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(Code 1965, Sec. 6.06(f))

Sec. 86-118. State regulations.

No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the state.

(Code 1965, Sec. 6.06(g))

Secs. 86-119--86-130. Reserved.

DIVISION 3. BUILDING SEWERS

Sec. 86-131. Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Board of Public Utilities.

(Code 1965, Sec. 6.07(a))

Sec. 86-132. Classes of permits; application; fees.

There shall be three classes of building sewer permits: (1) for residential; (2) for commercial service; and (3) for service to establishments producing industrial wastes. In any case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Board of Public Utilities. A permit and inspection fee of $10.00 for a residential building sewer permit, $20.00 for a commercial building sewer permit and $50.00 for an industrial building sewer permit shall be paid to the city treasurer at the time the application is filed.

(Code 1965, Sec. 6.07(b))

Sec. 86-133. Cost of installation.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Code 1965, Sec. 6.07(c))

Sec. 86-134. Separate connection for each building.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot, and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or

driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Code 1965, Sec. 6.07(d))

Sec. 86-135. Old sewers, reuse.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city, to meet all requirements of this article.

(Code 1965, Sec. 6.07(e))

Sec. 86-136. Construction standards.

The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WEF Manual of Practice No. 9 shall apply.

(Code 1965, Sec. 6.07(f))

Sec. 86-137. Elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Code 1965, Sec. 6.07(g))

Sec. 86-138. Surface water drainage.

No person shall make connection of roof downspouts, exterior foundation drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(Code 1965, Sec. 6.07(h))

Sec. 86-139. Connection regulations.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice No. 9. All such connections shall be made gastight and watertight.

(Code 1965, Sec. 6.07(i))

Sec. 86-140. Approval of deviation from standard procedures and materials.

Any deviation from the prescribed procedures and materials must be approved by the Board of Public Utilities before installation.

(Code 1965, Sec. 6.07(j))

Sec. 86-141. Supervision of connection of building sewer to public sewer.

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. The connection shall be made under the supervision of the city superintendent or his representative.

(Code 1965, Sec. 6.07(k))

Sec. 86-142. Guarding of 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.

(Code 1965, Sec. 6.07(l))

Secs. 86-143--86-155. Reserved.

DIVISION 4. SEWER USE

Sec. 86-156. Stormwater disposition.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the appropriate state agency. Industrial cooling water or unpolluted process waters may be discharged upon approval of the appropriate state agency, to a storm sewer or natural outlet.

(Code 1965, Sec. 6.08)

Sec. 86-157. Interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city and shall be located as to be readily and easily accessible for cleaning and inspection.

(Code 1965, Sec. 6.10)

Sec. 86-158. Sewage flow determination.

To determine the sewage flow from any establishment, the board of public utilities may use one of the following methods:

(1) The amount of water supplied to the premises by the city or a private water company as shown upon the water meter if the premises are metered;

(2) If the premises are supplied with river water from private wells, the amount of water supplied from such sources may be metered at the source or metered at its point of discharge prior to entry into the city sewer;

(3) If such premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be entirely discharged into the sewer system, the estimate of the amount of sewage discharged into the sewer system made by the Board of Public Utilities from the water, gas or electric supply, or metered at its point of discharge prior to entry into the city sewer;

(4) The volume of sewage discharged into the sewer system as determined by measurements and samples taken at a manhole installed by the owner of the property served by the sewer system at his own expense, in accordance with the terms and conditions of the permit issued by the Board of Public Utilities pursuant to this section; or

(5) A figure determined by the board of public utilities by any combination of the foregoing or by any other equitable method.

(Code 1965, Sec. 6.13)

Sec. 86-159. Inspection and sampling.

The city shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, or in the performance of any of their duties. The city shall have the right to request copies of records that relate to the quantity and quality of wastewater discharged. The city or approval authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring, and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with the security guards so that, upon presentation of suitable identification, personnel from the city or approval authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(Code 1965, Sec. 6.16; Ord. No. 672, Sec. 4.5, 6-17-85)

Sec. 86-160. Pretreatment standards.

(a) Users shall provide necessary wastewater treatment as required to comply with this article 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 city 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 city for review and shall be acceptable to the city before construction of the facility. 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 city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(b) The city shall annually publish in the South Haven newspaper a list of the users which were significantly violating pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the users during the same 12 months. Significant violations are violations which remain uncorrected 45 days after notice of noncompliance.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

(Code 1965, Sec.Sec. 6.09, 6.14; Ord. No. 672, Sec. 4.6, 6-17-85)

Secs. 86-161--86-170. Reserved.

DIVISION 5. RATES

Sec. 86-171. Sewer standby service fees.

The sewer standby service fee is based on the size of the water meter used or installed, is the minimum charge, is payable in advance, and is additional to the charge for sewer use. Such charge is to include the cost of debt service, capital replacement funding, capital improvement and the readiness to serve costs. Such charge is made whether or not the sewer is in use.

	Meter Size (inches)	Debt Service	Capital Replacement	City Capital Improvement	Ready to Serve	Total
(1)	5/8" or 3/4" meter	$ 5.85	$ 2.06	$ 6.26	$ 8.56	$ 22.72
(2)	1" meter	$ 7.79	$ 2.74	$ 8.34	$ 11.44	$ 30.30
(3)	1 1/4" meter	$ 11.17	$ 3.90	$ 15.57	$ 16.37	$ 47.01
(4)	1 1/2" meter	$ 14.54	$ 5.08	$ 22.24	$ 21.35	$ 63.22
(5)	2" meter	$ 20.77	$ 7.27	$ 30.50	$ 30.44	$ 88.98
(6)	3" meter	$ 36.35	$ 12.74	$ 38.94	$ 53.27	$ 141.31
(7)	4" meter	$ 54.54	$ 19.11	$ 58.42	$ 79.94	$ 212.00
(8)	6" meter	$ 85.69	$ 30.01	$ 91.79	$ 125.61	$ 333.10

(Code 1965, Sec. 7.02; Ord. No. 709, Sec. 1(III), 4-14-88; Ord. No. 781, Sec. 1, 7-1-93; Ord. No. 838, Sec. 1, 9-3-96; Ord. No. 842, Sec. 1, 4-7-97; Ord. No. 860, Sec. 1, 7-1-98; Ord. No. 887, Sec. 1, 6-18-01; Ord. No. 902, 08-19-02; Ord. No. 944, Sec. 3, 06-19-06; Ord No. 956, Sec. 3, 06-18-07; Ord. No. 964, Sec. 3, 06-16-08; Ord. No. 971, Sec. 3, 06-15-09; Ord. No. 982, Sec 3, 06-21-2010; Ord. No. 992, Sec. 3, 06-20-2011; Ord. No. 1002, Sec. 3, 06-17-2013; Ord. No. 1012, Sec. 3, 06-14-2014; Ord. No. 1018, Sec. 3, 06-15-2015)

Sec. 86-172. Sewer usage rate.

(a) In addition to the standby service charge for sewer, a usage charge is levied which is based solely on the amount of water which is registered on the water meter each billing period. This rate is $2.74 per 100 cubic feet of water metered.

(b) The sewer usage volume charge for single-family and duplex residential structures for utility bills dated June 1 through September 30 will be based on the average monthly water use billed for the five month period from the November water meter readings through the April water meter readings with a minimum volume charge of 1,000 cubic feet per month. If a month's metered water use is less than the above referenced sewer usage volume calculation, that month's sewer usage volume charge will be based on the metered water use. For new connections with no history of usage, the minimum billing will apply.

(Code 1965, Sec. 7.02; Ord. No. 724, Sec. 2, 5-15-89; Ord. No. 768, Sec. 1, 7-1-92; Ord. No. 781, Sec. 1, 7-1-93; Ord. No. 810, Sec. 1, 7-1-94; Ord. No. 838, Sec. 1, 9-3-96; Ord. No. 842, Sec. 1, 4-7-97; Ord. No. 860, Sec. 1, 7-1-98; Ord. No. 872, 7-1-99; Ord. No. 886, Sec. 2, 8-7-00; Ord. No. 887, Sec. 1, 6-18-01; Ord. No. 902, 08-19-02; Ord. No. 931, 05-02-05; Ord. No. 944, Sec. 3, 06-19-06; Ord No. 956, Sec. 3, 06-18-07; Ord. No. 964; Sec. 3, 06-16-08; Ord. No. 971, Sec. 3, 06-15-09; Ord. No. 982, Sec 3, 06-21-2010; Ord. No. 992, Sec. 3, 06-20-2011; Ord. No. 1002, Sec. 3, 06-17-2013; Ord. 1008, Sec 1, 01-13-2014; Ord. No. 1012, Sec. 3, 06-14-2014; Ord. No. 1018, Sec. 3, 06-15-2015)

Sec. 86-173. Township sewer use rates.

Township sewer usage rates will be collected at the same rates as City usage rates. Township standby service fees will be as established by the Casco and South Haven Townships Water and Sewer Authority but will include Capital Replacement/Improvement fee and the readiness to serve fee as established by this ordinance.

(Code 1965, Sec. 7.02; Ord. No. 718, Sec. 1, 12-29-88; Ord. No. 810, Sec. 1, 7-1-94; Ord. No. 838, Sec. 1, 9-3-96; Ord. No. 842, Sec. 1, 4-7-97; Ord. No. 860, Sec. 1, 7-1-98)

Sec. 86-174. Sewer only users.

Users of sewer service only, that do not subscribe to City water service, will have the option of:

(1) Installing a water meter on their private water source, installed at the total expense of the user and providing the meter is available to the satisfaction of the City for monthly reads and periodical inspection as determined by the City;

(2) Billing on a flat rate as determined by the City. The flat rate will be determined based on 1000 Cubic Feet per month per Residential Equivalent Unit (REU). In

addition, fixed sewer charges for Debt Service, Capital Replacement Improvement, etc. will be the same as a customer with a 5/8" water meter.

(Ord. No. 860, Sec. 1, 7-1-98; Ord. No. 934, 06-20-05)

Sec. 86-175. Violations.

Any person who violates any provision of this article shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in section 1-16 of this Code.

(Ord. No. 910, 02-03-03)

Secs. 86-176--86-195. Reserved.

ARTICLE V. INDUSTRIAL PRETREATMENT

DIVISION 1. GENERALLY

Sec. 86-196. Purpose, policy and objectives of article.

(a) This article 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 of 1977, as amended, and the General Pretreatment Regulations (40 CFR, Part 403).

(b) The objectives of this article are to:

(1) Prevent the introduction of pollutants into the municipality wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere, pose a health threat to sewer workers, cause the treatment plant to violate its NPDES Discharge Permit, or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(4) Provide for equitable distribution of the cost of the municipal wastewater system.

(Ord. No. 672, Sec. 1.1, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-197. Administration and enforcement.

(a) This article provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customers capacity will

not be preempted(except as may be necessary or appropriate to protect the system or the receiving stream), and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article.

(b) This article shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided in this article, the superintendent of the city POTW or his designee shall administer, implement, and enforce the provisions of this article.

(Ord. No. 672, Sec. 1.1, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-198. Definitions.

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

Act or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the Director of the state Department of Environmental Quality (or its successor) or other duly authorized official of the agency.

Authorized representative of industrial user means:

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively;

(3) A duly authorized representative of the individual designated in subsections (1) and (2) of this section, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates. The authorization must be made in writing by an individual described in subsection (1) or (2) of this section and submitted to the superintendent.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20^{o} Celsius, expressed in terms of weight [pounds per day (lbs/day)] and concentration [milligrams per liter (mg/l)].

Building sewer means a sewer conveying wastewater from the premises of a user to the POTW.

Categorical standards means national categorical pretreatment standards. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317), which applies to a specific category of inductiral users.

City means the City of South Haven or the City Council of South Haven, or the Superintendent and authorized representatives.

Compatible Pollutants means pollutants which can be effectively removed by the POTW system to within acceptable levels for the POTW residuals and the receiving stream. Specifically excluded are “heavy” metals, PCBs and any pollutant that will likely contribute or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the State of Michigan.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the agency.

Garbage means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Indirect discharge means the discharge or the introduction of pollutants into the POTW (including Holding tank waste discharged into the system.

Industrial wastes mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

Interference means any discharge which causes the inhibition or disruption of the POTW treatment processes or operations which contributes to violation (including an increase in the magnitude or duration of a violation) of any requirement of the city’s NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act (33 USC 1345), or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

National pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) which applies to Industrial Users.

National pollution discharge elimination system or NPDES permit means a permit issued pursuant to section 402 of the Act (33 USC 1342).

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.

New source includes situations where:

(1) Construction is at site where no other point discharge is located;

(2) The process or production equipment causing discharge is totally replaced.

(3) The new wastewater generating processes of the facility are substantially independent of an existing source at the site.

Construction, as defined in this provision, is considered to have commenced when:

(1) Installation or assembly of facilities or equipment has begun;

(2) Significant site preparation has begun for installation or assembly; or

(3) The owner/operator has entered into a binding contractual obligation for the purchase of facilities or equipment intended to be used in operations within a reasonable time.

Non-contact cooling water means water used to reduce temperature in a process that does not come in direct contact with the product and does not require any special treatment by governing state, federal or local agencies to be discharged into a storm sewer or natural body of water.

Pass-Through means 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 a violation of any requirement of the POTW's NPDES discharge permit (including an increase in the magnitude or duration of a violation).

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH means the logarithm, base 10, of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means 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, and agricultural waste or any other contaminant discharged into water.

Pollution means the introduction of pollutants that can or does result in the degradation or impairment of the chemical, physical, biological, and radiological integrity of water.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination 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 a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR 403.6(d) regarding dilution.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an Industrial User.

Pretreatment standards or standard means any local, state, or federal regulation containing pollutant discharge limits. This term includes local limits, prohibitive discharge limits, and Categorical Pretreatment Standards.

Publicly owned treatment works (POTW(e.g. the "System")) means a treatment works as defined by section 212 of the Act (33 USC 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant.

Sanitary sewage means water carried waste from toilets, kitchens, laundry, bathing, or other facilities used for household purposes.

Shall means is mandatory; May be permissive.

Significant industrial user:

(1) Except as provided in subsection (2), a Significant User is any Industrial User of the City's wastewater disposal system who:

a. has a discharge flow of 25,000 gallons or more per average work day; or

b. has an effluent which contributes greater than five (5%) percent of the average dry weather hydraulic or organic capacity of the City's wastewater treatment system; or

c. or is found by the City, to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the systems effluent quality, or air emissions generated by the system; or

d. is a discharger subject to Categorical Pretreatment Standards under 40 CFR 403.6 or 40 CRF Chapter I, Subchapter N.

(2) Upon finding that an Industrial User meeting the criteria in subsection (1)(i) or (ii) of this Section has no reasonable potential from adversely affecting the operation of the City's wastewater treatment system or for violating any pretreatment

standard or requirement, the City may at any time, on its on initiative or in response to a petition received from an Industrial User, and in accordance with 40 CFR 403.8(f)(6), determine that the such Industrial User is not significant Industrial User.

Slug means any discharge of water, sewage or industrial waste of a non-routine episodic nature, including but not limited to an accidental spill or non-customary batch discharge.

State means the State of Michigan and authorized representatives.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm water means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent means the person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other federal acts or in regulations promulgated by the Director of the Michigan Department of Environmental Quality (or its successor) under State Law.

User means any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any infiltration or inflow which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Wastewater discharge permit means the permit as set forth in section 86-261.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof other than those designed and used to collect, convey, or dispose of sanitary sewage..

(Code 1965, Sec. 6.01; Ord. No. 672, Sec. 1.2, 6-17-85; Ord. No. 835, 3-4-96)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 86-199. Abbreviations.

BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
EPA	United States Environmental Protection Agency
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Work
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act, 42 USC 6901, et seq.
TSS	Total Suspended Solids
USC	United States Code

(Ord. No. 672, Sec. 1.3, 6-17-85; Ord. No. 835, 3-4-96)

Secs. 86-200--86-210. Reserved.

DIVISION 2. DISCHARGES

Sec. 86-211. General discharge prohibitions.

(a) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or cause interference with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other National, State or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(1) Any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. This includes, but is not limited to waste streams with a flash point of less than 140^{o}F or 60^{o}C using the test methods specified in 40 CFR 261.21. In addition, at no time shall any single reading on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than twenty (20%) percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, prechlorates, bromates, carbides, hydrided and sulfides, and any other substances which are fire hazards or hazards to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facility such as, but not limited to, grease, garbage with particles greater than one-half inch (1/2”) in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags,

spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.5 or greater than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater volume or wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair. This includes, but is not limited to, discharges which result in toxic gases, vapors, or fumes.

(6) Any substance which may cause the POTWs effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which causes the treatment plant influent to exceed 104^{o} F.

(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable State or Federal regulations.

(12) Any wastewater containing sufficient amounts of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause pass through or interference with POTW operations.

(13) Any trucked or hauled waste except at discharge points and subject to such other restriction as designated by the POTW.

(14) Any wastewater which causes a hazard to human life or creates a public nuisance.

(Code 1965, Sec. 6.02; Ord. No. 672, Sec. 2.1, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-212. Federal categorical pretreatment standards.

(a) Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this Article for sources in that subcategory, shall immediately supersede the limitations imposed under this Article. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(b) For industries subject to limitations on mass discharge per unit of production, the City may set equivalent mass per day or concentration limits. These limits will be deemed pretreatment standards which Industrial users shall comply with in lieu of the promulgated standards. Any industrial user which is operating under equivalent mass or concentration limits calculated from a production based standard shall notify the City within two (2) business days after the user has reason to know that the production level will significantly change within the next calendar month.

(c) The Categorical Pret5reatment Standards may be adjusted to reflect the presence of pollutants in the Industrial Users intake water in accordance with 40 CFR 403.15. Any user wishing to obtain credit for intake pollutants must apply to the City and demonstrate that the requirements of 40 CFR 403.15(b) are met. If the City approves the users application, the applicable Standard will be recalculated on a “net” basis to reflect credit for the pollutants in the intake water.

(Code 1965, Sec. 6.05; Ord. No. 672, Sec. 2.2, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-213. Modification of federal categorical pretreatment standards.

Where the City’s wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to the approval authority for modification of specific limits in the Federal Pretreatment Standards. Consistent removal shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95 percent of the samples taken when measured according to 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 approval from the approval authority is obtained.

(Code 1965, Sec. 6.05; Ord. No. 672, Sec. 2.3, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-214. Specific pollutant limitations.

No person shall discharge wastewater containing in excess of:

Pollutant	Discharge Limit
Chlorine Demand	15 mg/l
Chemical Oxygen Demand (COD)	Surcharge above 450 mg/l Upper limit 3000 mg/l
5-Day Biochemical Oxygen Demand (BOD)	Surcharge above 200 mg/l Upper limit 2000 mg/l
Suspended Solids	Surcharge above 250 mg/l Upper limit 4000 mg/l
Phosphorus (as P)	Surcharge above 10 mg/l Upper limit 100 mg/l
Ammonia Nitrogen (NH_3 as N)	Surcharge above 20 mg/l Upper limit 100 mg/l
Fats, Oils, and Grease	100 mg/l
PH	Lower limit 5.5 Upper limit 9.5
Temperature (F^o)	150^oF Maximum to Sewer 104^o Maximum at POTW Treatment Plan Influent

Metals	Maximum mg/l	30 Day Average mg/l
Arsenic	0.170	0.089
Cadmium	0.150	0.066
Chromium, total	5.200	2.100
Copper	5.700	1.900
Cyanide, total	1.300	1.300
Lead	1.300	0.400
Mercury	non detect	non detect
Nickel	1.300	1.300
Silver	0.037	0.037
Zinc	12.000	4.900

(Ord. No. 672, Sec. 2.4, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-215. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this division.

(Ord. No. 672, Sec. 2.5, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-216. City's right of revision.

The city reserves the right to establish by Article or by discharge permit more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in section 86-196 of this article.

(Ord. No. 672, Sec. 2.6, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-217. Dilution.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State, except where expressly authorized to do so by an applicable Categorical Pretreatment Standard or in writing by the Superintendent.

(Ord. No. 672, Sec. 2.7, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-218. Slug discharges.

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division.

(b) The City will evaluate each significant Industrial User at least once every two (2) years to determine whether the user needs to develop a plan to prevent and control slug discharges.

(c) If facilities are required to prevent slug discharges, they shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be approved by the City before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the user's facility as necessary to meet the requirements of this division.

(d) In case of an anticipated slug discharge, the user shall notify the Superintendent (if possible) or the POTW by telephone of the anticipated discharge, including discharge location, type of waste, concentration and volume, by not later than immediately after the user becomes aware that the slug discharge may occur or ten (10) days prior to the anticipated discharge. The user shall also take such other steps as required by the POTW or this code.

(e) In the case of an accidental discharge, operations upset, or other slug discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions. The Industrial user must the repeat the sampling and analysis of the

discharge within 24 hours after becoming aware of a violation and report the results to the City as soon as they are available (not later than 30 days), unless the POTW samples the Industrial User's discharge.

(1) *Written Notice*. Within five (5) days following an accidental discharge or operations upset, 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 expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, and other damage to person or property; not 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.

(2) *Notice to Employees*. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge of prohibited materials or other substances regulated by this Article. Employers shall insure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(Ord. No. 672, Sec. 2.8, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-219. Discharge changes.

The Industrial User must notify the POTW before making any significant changes in its discharge. A significant change is defined as a twenty-five (25%) percent increase in nondomestic flow or pollutant loading, or a new process water discharge. The City may require a new Wastewater Discharge Permit prior to the change (see Sec. 86-261).

(Ord. No. 835, 3-4-96)

Sec. 86-220. Bypass.

Bypass means the intentional diversion of wastewater from any portion of an Industrial User's treatment facility. 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 ensure efficient operation. If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the City, if possible at least ten (10) days before the date of bypass. A bypass that violates treatment standards or other discharge limitation is prohibited unless the bypass was unavoidable to prevent loss of life, personal injury or severe property damage; or there were no feasible alternatives to the bypass. The Industrial User shall submit oral and written notification of a bypass that may or does exceed discharge limitations as described under Sec. 86-218. The Superintendent may require such additional written reports as he deems appropriate regarding an anticipated or unanticipated bypass.

(Ord. No. 835, 3-4-96)

Sec. 86-221. Hazardous waste.

(a) Any Industrial User, except as specified in subsection (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 subsection (b) above, Industrial Users 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 user;

(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 expected to be discharged during the following 12 months.

(d) All notifications must be provided no later than 180 days after the discharge of the listed or characteristic hazardous 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 Subdivision II of Division 4.

(e) Industrial Users are exempt from the hazardous waste notification requirement during a calendar month in which they discharge 15 kg or less of non-acute hazardous wastes. Discharge of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and d261.33(e) requires a one-time notification.

(Ord. No. 835, 3-4-96)

Secs. 86-222--86-230. Reserved.

DIVISION 3. FEES

Sec. 86-231. Purpose of division.

It is the purpose of this division to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established in this article. The applicable charges or fees shall be set forth in the City's schedule of Charges and Fees.

(Ord. No. 672, Sec. 3.1, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-232. Charges and fees.

(a) The City may adopt, by resolution, charges and fees which may include:

(1) Fees for reimbursement of costs of setting up and operating the City's pretreatment program;

(2) Fees for monitoring, inspections and surveillance procedures; including the cost of reviewing monitoring reports submitted by the user;

(3) Fees for reviewing accidental discharge procedures and construction;

(4) Fees for permit applications; including the cost of processing such applications;

(5) Fees for filing appeals;

(6) Fees for consistent removal by the City of pollutants otherwise subject to Federal Pretreatment Standards.

(7) Other fees as the City may deem necessary to carry out the requirements contained in this division.

(b) These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the City.

(Ord. No. 672, Sec. 3.2, 6-17-85; Ord. No. 835, 3-4-96)

Secs. 86-233--86-245. Reserved.

DIVISION 4. ADMINISTRATION

Subdivision I. Generally

Sec. 86-246. Unpermitted wastewater discharge.

It shall be unlawful to discharge to the POTW any non-domestic wastewater except as authorized by the Superintendent in accordance with the provisions of this Article.

(Code 1965, Sec. 6.02; Ord. No. 672, Sec. 4.1, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-247. Monitoring facilities.

(a) The City shall require to be provided and operated at the user's own expense monitoring facilities to allow the inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) There shall be ample room in or near such sampling manhole or 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 user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the city.

(Ord. No. 672, Sec. 4.4, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-248. Inspection and sampling.

The City shall have the right to inspect the facilities of any user to ascertain whether the purpose of this Article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination, or in the performance of any of their duties. The City shall have the right to request copies of records that relate to the quantity and quality of wastewater discharged. The City or approval authority shall have the right to set up on the user's property such devices are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear before entry into their premises, the user shall make necessary arrangements at its own expense enable authorized representative of the City or approval authority to enter, without delay, for the purposes of performing their specific responsibilities.

(Ord. No. 672, Sec. 4.7, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-249. Pretreatment.

(a) Users shall provide necessary wastewater treatment as required to comply with the most stringent of this Article, Federal pretreatment standards, State standards and permit conditions, and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitation as specified by the Federal Pretreatment Regulations and any other pretreatment standards by applicable deadlines. Any facilities required to pretreat wastewater to a level acceptable to the City 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 City for review, and shall be acceptable to the City before construction of the facility. 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 City under the provisions of this Article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

(b) New sources subject to Federal, State, or local pretreatment standards shall be required to install and start-up the necessary technology to meet applicable limitations prior to discharge; and to achieve compliance within the shortest time feasible, not to exceed ninety (90) days after commencement of discharge.

(Ord. No. 672, Sec. 4.8, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-250. Confidential information.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any costs incurred by the City in connection with a request of confidentiality by a user shall be paid or reimbursed by the user.

(b) When requested by the person furnishing a report, the portions of a report which the user demonstrates to the City's satisfaction might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Article, the City's NPDES Permit, State Disposal System Permit, and/or the Pretreatment Programs. Such portions of a report shall also be available for use by the State or EPA in accordance with law, including use in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information and ware available to the public without restriction.

(Ord. No. 835, 3-4-96)

Sec. 86-251. Records retention.

All dischargers subject to this Article shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof relating to monitoring, sampling and chemical analyses made by or in behalf of the discharger in connection with its discharge. All records which pertain to matters which are 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. No. 835, 3-4-96)

Sec. 86-252. Publication of significant noncompliance.

(a) The City shall annually publish in the South Haven newspaper a list of the users which were significantly violating pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the users(s) during the same twelve (12) months. The user is in significant noncompliance if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all 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 (TRC) violations, defined here as those in which 33 percent or more of all of the measurements of 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 City 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 to halt or prevent such a discharge;

(5) Failure to meet, within ninety (9) days after the schedule date, a compliance schedule milestone contained in a discharge permit or enforcement order for starting construction, completing constriction or attaining final compliance;

(6) Failure to provide, within thirty (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 City determines will adversely affect the operation or implementation of the City's pretreatment program.

(b) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

(Ord. No. 835, 3-4-96)

Secs. 86-253--86-260. Reserved.

Subdivision II. Wastewater Discharge Permit

Sec. 86-261. Required.

(a) All anticipated or actual significant users of the POTW and other users shall obtain a Wastewater Discharge Permit from the city before connecting to or contributing to the POTW.

(b) All Industrial Users must apply for a new permit or a modification to their existing permits at least 90 days in advance of substantial changes in volume or character of discharges.

(Ord. No. 672, Sec. 4.2.1, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-262. Application.

(a) Users required to obtain a Wastewater Discharge Permit shall complete and file with the City an application in the form prescribed by the City. Proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address and location if different from the address;

(2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.

(3) Wastewater constituents and characteristics including, but not limited to, those mentioned in Division 2 of this Article 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;

(4) Time and duration of contribution;

(5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variations if any; and a description of any anticipated non-routine batch discharges (characteristics, duration, and flowrate);

(6) Site plans, floor plans, mechanical and plumbing plans and detail to show all sewers connections, and appurtenances by the size, location, and elevation; and a curring water use schematic;

(7) Description of activities, facilities and plant processes on the premises including all stored chemicals and all materials which are or could be discharges;

(8) Where known, the nature and concentration of any pollutant in the discharge which are limited by any City, State, or Federal Pretreatment Standards, and a statement signed by an authorized representative of the user and certified by a qualified professional in accordance with 40 CFR 403.12(b)(6) regarding whether or not the Pretreatment Standards are being met on a consistent basis and if not whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable Pretreatment Requirements and Standards. Those users subject to National Categorical Pretreatment Standards must comply with the pollutant measurement requirements in 40 CFR 403.12(b)(5);

(9) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:

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 Pretreatment Standards (e.g., hiring and engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

b. No increment referred to in subsection (9)(i) of this section shall exceed nine (9) months.

c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent including, as a minimum, whether or not it complied with the increment of progress 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 user to return the construction to the schedule established. In no event shall more then nine (9) months elapse between such progress reports to the Superintendent.

(10) Each product and/or byproduct produced by type, amount, process or processes and rate of production;

(11) Type and amount of raw materials used in processes (average and maximum per day);

(12) Number and type of employees, and hours of operation of plan and proposed or actual hours of operation of pretreatment system;

(13) List of any environmental control permits held by or for the facility;

(14) Any other information as may be deemed by the City to be necessary to evaluate the permit application.

(15) The application must be certified by an authorized representative of the user in accordance with 40 CFR 403.6(a)(2)(ii).

(b) The City will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a Wastewater Discharge Permit subject to terms and conditions provided herein. The permit shall not become effective prior to submittal to the Superintendent of a copy of the permit executed by an authorized representative of the permitee.

(Ord. No. 672, Sec. 4.2.3, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-263. Modifications.

Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Discharge Permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Discharge Permit is required by Sec. 86-262, the user shall apply for a Wastewater Discharge Permit within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the user with an existing Wastewater Discharge Permit shall submit to the Superintendent within 180 days after promulgation of an applicable Federal Categorical Pretreatment Standard the information required by subsection (a)(8) and (a)(9) of Sec. 86-262.

(Ord. No. 672, Sec. 4.2.4, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-264. Conditions.

Wastewater Discharge Permits shall be expressly subject to all provisions of this Article and all other applicable regulations, user charges, and fees established by the City. Permits shall contain as appropriate the following:

(1) The permit durations as described in Sec. 86-265 of this Article;

(2) Permit transfer requirements as described in Sec. 86-266 of this Article;

(3) General and specific discharge prohibitions as established by Sec. 86-211 and 86-214 of this Article;

(4) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a city sewer;

(5) Effluent limitations based on the more stringent categorical pretreatment standards, local limits as established by this Article and State and local law;

(6) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(7) Requirements for installation and maintenance of inspection and sampling facilities;

(8) Requirements and specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for test and reporting schedule;

(9) Description of applicable civil and criminal penalties for violations of the pretreatment standards and requirements, and any applicable compliance schedules;

(10) Requirements for submission of technical reports or discharge reports (see Subdivision III of Division 4);

(11) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City, State and EPA access thereto;

(12) Requirements for notification of the City of any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(13) Requirements for notification of spills or other potential problem discharges to the POTW including slug loadings, upsets, or violations;

(14) Requirements for installation, operation, and maintenance of pollution control equipment;

(15) Requirements to develop and implement spill and slug control plans;

(16) Conditions for modification or revocation of permit;

(17) Other conditions as deemed appropriate by the City to ensure compliance with this Article.

(Ord. No. 835, 3-4-96)

Sec. 86-265. Duration.

Permits shall be issued for a specified time period, not to exceed 5 years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in Division 2 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (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. No. 672, Sec. 4.2.5, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-266. Transfer.

Wastewater discharge permits are issued to a specific user for a specific operation, and are not valid for and other user or operation except as provided below. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the City 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.

(Ord. No. 672, Sec. 4.2.6, 6-17-85; Ord. No. 835, 3-4-96)

Secs. 86-267--86-275. Reserved.

Subdivision III. Reporting Requirements for Permittee

Sec. 86-276. Compliance date report.

(a) Within (90) days following the date for final compliance with applicable Pretreatment Standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to Pretreatment Standards and Requirements shall submit to the Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the user facility which are limited by such Pretreatment Standards or Requirements. The report shall state whether the applicable Pretreatment Standards or Requirements 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 or Requirements. This statement shall be signed by an authorized representative of the User, and certified to by a qualified professional in accordance with 40 CFR 403.12(b)(6).

(b) For Industrial Users subject to production based standards or equivalent mass or concentration limits established by the City, this report shall include the user's actual production during the appropriate sampling period and a reasonable measure of the user's long term production rate.

(Ord. No. 672, Sec. 4.3, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-277. Periodic compliance reports.

(a) Any user designated by the City as a significant user including those users subject to Categorical Pretreatment Standard, shall submit Superintendent during the months of June and December, unless required more frequently in the Pretreatment Standards or by the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, to other requirements for reports under this subdivision, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in section 86-276. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques prescribed by the City. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted.

(b) The superintendent may impose mass limitations on users where appropriate. In such cases, the report required by subsection (a) of this section shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the user. 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.

(c) For Industrial Users subject to production based standards or equivalent mass or concentration limits established by the City, this report shall include the users actual production during the appropriate sampling period and a reasonable measure of the user's long term production rate.

(Ord. No. 672, Sec. 4.3, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-278. Non-significant industrial users.

The City may require monitoring and reports from Users with discharges that are not subject to categorical pretreatment standards and are not otherwise deemed by the Control Authority to be significant.

(Ord. No. 835, 3-4-96)

Sec. 86-279. Reporting requirements for non-significant industrial users.

The City may require monitoring and reports from Users with discharges that are not subject to categorical pretreatment standards and are not otherwise deemed by the Control Authority to be significant.

(Ord. No. 835, 3-4-96)

Sec. 86-280. Reporting of additional monitoring results.

If a User subject to periodic reporting requirements under this Article or a discharge permit monitors any pollutant more frequently than required by the City using the procedures prescribed in this Article, the results of such monitoring shall be provided to the City by not later than the User's due date for its next required monitoring report.

(Ord. No. 835, 3-4-96)

Sec. 86-281. Reporting of violations.

Any User shall report to the City any violation of the terms of its discharge permit an/or this Article as soon as possible and in any case within twenty-four (24) hours of the time it becomes aware of the violation.

(Ord. No. 835, 3-4-96)

Sec. 86-282. Resampling after violation.

In the event any User violates any discharge limit contained in its discharge permit, this Article, and/or state or federal statute, rule or regulation, it shall resample its effluent for the pollutant(s) causing the violations(s) and provide the results to the City within thirty (30) days, unless sooner required by the City.

(Ord. No. 835, 3-4-96)

Sec. 86-283. Additional report requirements.

(a) All monitoring results must be reported for all permit parameters using required methods according to 40 CFR 403.12(g)(5).

(b) Reports shall be certified by an authorized representative of the user in accordance with 40 CFR 403.6(a)(2)(ii).

(c) Sampling for compliance must be representative of Wastewater Discharge per 40 CFR 403.12(g)(3).

(d) Samples collected for the purpose of satisfying the requirements of this article shall be analyzed in accordance with the techniques prescribed in 40 CRD 136, or the laboratory procedures set forth in the latest edition at the time of the analysis of *Standard Methods for the Examination of Water and Wastewater* provided that to the extent of any conflict, 40 CFR 136 shall be followed. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with methods approved by EPA for that purpose.

(Ord. No. 835, 3-4-96)

Secs. 86-284--86-290. Reserved.

DIVISION 5. ENFORCEMENT

Subdivision I – Generally

Sec. 86-291. Right of appeal.

Any discharger or any interested party shall have the right to request, in writing, an interpretation or ruling by the City on any matter covered by this Article and shall be entitled to a prompt written reply. Requests for interpretations or rulings by the City shall be decided by the City Manager or his designee. Appeal of any final judicial order entered pursuant to this Article may be taken in accordance with local and state law.

(Ord. No. 672, Sec. 5.1, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-292. Operating upsets.

"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 User. Upset does not include noncompliance to the extent cause by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless or improper operation. Any discharge which experiences and upset in operations which places the discharger in a temporary state of noncompliance with Federal Categorical Pretreatment Standards, or this Article, or a Wastewater Discharge Permit issued pursuant hereto shall comply with the notification and reporting procedures described in Sec. 86-218 for Slug Discharges. A documented and verified bona fide operating upset shall be an affirmative defense to any enforcement action brought by the City against a discharger for any noncompliance with the Article or any Wastewater Discharge Permit issue pursuant hereto, which arises our of violations alleged to have occurred during the period of upset. In any enforcement proceeding the discharger seeking to establish the occurrence of an upset shall have the burden of proof. A 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 workman-like manner and in compliance with applicable operation and maintenance procedures;

(3) The reporting procedures in Sec. 86-218 were adhered to properly.

(Ord. No. 672, Sec. 5.2, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-293. Affirmative defenses.

A User shall have an affirmative defense in any action brought against it for an alleged violation of the general prohibitions contained in the introductory paragraph to Sec. 86-211, and those specific prohibitions contained in subsections 86-211(2), (9), (12), where the User demonstrates that:

(1) It did not know or have reason to know that its discharge, alone or in conjunction with the discharge or discharges from other sources, would have cause pass through or interference; and

(2) (a) A local limit designed to permit pass through and/or interference as the case may be, was developed in accordance with applicable law 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 interference; or (b) if a local limit designed to prevent pass through or interference, as the case may be, has not been developed in accordance with applicable law 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 substantially change in nature or constituents from the User's prior discharge activity when the POTW was regularly in compliance with its NPDES permit requirements and, in the case of interference, applicable requirements for sludge user or disposal.

(Ord. No. 672, Sec. 5.3, 6-17-85; Ord. No. 835, 3-4-96)

Secs. 86-294--86-295. Reserved.

Subdivision II. Administrative Enforcement Remedies.

Sec. 86-296. Notification of violation.

Whenever the City finds that any User has violated or is violating this Article, or a wastewater permit or order issued hereunder, the Superintendent or his agent may serve upon said user written notice of the violation. An explanation of the violation and/or a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted tot the Superintendent as required by the Notification of Violation. Submission of this plan in no way relieves the user of liability or any violations occurring before or after receipt of the Notice of Violation.

(Ord. No. 672, Sec. 5.6, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-297. Consent orders.

The Superintendent is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the User responsible for the noncompliance. Such orders will include compliance schedules, stipulated fines, or penalties, or remedial actions, and signatures of the superintendent and an authorized representative of the user.

(Ord. No. 672, Sec. 5.7, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-298. Show cause order.

The Superintendent may order any user which causes or contributes to violations of this Article, wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. The notice of the show cause hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to

the hearing. Whether or not a duly notified User appears as noticed, enforcement action may be pursued as appropriate. The Superintendent or his designee shall conduct the show cause hearing.

(Ord. No. 835, 3-4-96)

Sec. 86-299. Compliance order.

When the Superintendent finds that an Industrial User has violated or continues to violate the ordinance or a permit or order issued thereunder, he may issue and order to the 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 management practices.

(Ord. No. 835, 3-4-96)

Sec. 86-300. Cease and desist order.

When the Superintendent finds that a User has violated or continues to violate this Article, or any permit or order issued hereunder, the Superintendent may issue an order to cease and desist all illegal or authorized discharges immediately.

(1) In an emergency, the order to cease and desist may be given by telephone.

(2) In non-emergency situations, the cease and desist order may be used to suspend or permanently revoke industrial Wastewater Discharge Permits.

(3) The cease and desist order may order the 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. No. 835, 3-4-96)

Sec. 86-301. Administrative fines or penalties.

Notwithstanding any other Section of this Article, any user who is found to have any provision of this Article, or permits and orders issued hereunder, shall be punished by a fine or penalty of not more than One Thousand Dollars ($1,000), or such other amount as authorized by law. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be imposed administratively by the Superintendent to the extent authorized by law and added to the user's next scheduled sewer service charge and the Superintendent shall have such 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. Users desiring to dispute such fines must file a request for the Superintendent to reconsider the fine within ten (10) days of being notified of the fine. Where the Superintendent believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request for the User.

(Ord. No. 835, 3-4-96)

Sec. 86-302. Emergency suspensions.

(a) The Superintendent may suspend the wastewater treatment service and/or wastewater permit of a 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 it discharge of wastewater to the system. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection or termination of the Users water supply, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in Sec. 86-303 are initiated against the user.

(c) A 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 take to prevent any future occurrence to the Superintendent prior to the date of the hearing described in paragraph (b) above.

(Ord. No. 835, 3-4-96)

Sec. 86-303. Termination of permit.

(a) Significant Industrial Users proposing to discharge into the POTW, must first obtain and maintain a Wastewater Discharge Permit from the City. Any user who violates the following conditions of this Article or a Wastewater Discharge Permit Order, or any applicable State or Federal law, is subject to permit termination:

(1) Violation of permit conditions; or

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge; or

(3) Failure to report significant changes in operations or wastewater constituents and characteristics; or

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

(b) Noncompliant Users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under Sec. 86-298 of this Article why the proposed action should not be taken.

(Ord. No. 835, 3-4-96)

Secs. 86-304--86-305. Reserved.

Subdivision III. Judicial Remedies.

Sec. 86-306. Cause.

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this Article or any order to permit issued hereunder, the Superintendent, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the Circuit Court of this Country.

(Ord. No. 835, 3-4-96)

Sec. 86-307. Injunctive relief.

Whenever a User has violated or continues to violate the provisions of this Article or permit or order issued hereunder, the 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 User.

(Ord. No. 835, 3-4-96)

Sec. 86-308. Civil or criminal penalties.

Penalties may be assessed as described in Division 6.

(Ord. No. 835, 3-4-96)

Secs. 86-309 -- 86-310. Reserved.

DIVISION 6. PENALTY

Sec. 86-311. Municipal civil infractions.

(a) A person or User who violates any provision of this Article or any Order or permit issued hereunder, is responsible for a Municipal Civil Infraction unless the violation type is identified in this Division as a misdemeanor. Municipal Civil Infractions for violation of this Article are subject to payment of a civil fine of not more than One Thousand and no/100 ($1,000.00) Dollars or as otherwise permitted by law, and shall be subject to the sanctions and enforcement procedure for a Municipal Civil Infraction as set forth in this Code. Each day during which any violation continues, including each day of an averaging period for which a violation occurs, shall be deemed a separate and distinct offense, and shall constitute a separate Municipal Civil Infraction. Except as specifically provided in this Section as the charges, fines or penalties which may be imposed on a person responsible for a Municipal Civil Infraction, administration and enforcement of Municipal Civil Infractions shall be as otherwise provided in the Code.

(b) In determining the amount of the fine or penalty for a violation, the City or the Court, as applicable, shall take into account all the relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economical benefit gained through violation, corrective actions by the User, the compliance history of the User, and other factors as justice requires.

(Code 1965, Sec. 6.17; Ord. No. 672, Sec. 6.1, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-312. Criminal prosecution.

(a) Violations – Generally

(1) Any User who willfully or intentionally violates any provision of this Article or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed $500 per violation per day or imprisonment for not more than ninety (90) days or both, or such greater fine or imprisonment as permitted by law.

(b) Falsifying Information

(1) Any User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Article, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Article shall, upon conviction, be punished by a fine of not more than $500 per violation per day or imprisonment for not more than ninety (90) days or both, or such greater fine or imprisonment as permitted by law.

(Ord. No. 672, Sec. 6.2, 6-17-85; Ord. No. 835, 3-4-96)

Sec. 86-313. Recovery of costs incurred by the authority.

(a) Any discharger violating any of the provisions of this Article, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the POTW or its operation (including management of sludge) or otherwise causes the City to incur additional or non-routine costs, shall be liable to the City for any expense, loss, or damage caused by such violation or discharge.

(b) If the discharger shall neglect or refuse to pay the assessed costs, the City may commence legal proceedings to recover the costs, together with costs and attorney fees as allowed by law. Such action shall be in addition to any other penalties or remedies provided in this article.

(Ord. No. 672, Sec. 6.3, 6-17-85; Ord. No. 835, 3-4-96)

Secs. 86-314 – 86-320. Reserved.

DIVISION 7. SEVERABILITY

Sec. 86-321. Generally.

If any provision, paragraph, word, Section, or article of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, divisions, and chapters shall not be affected and shall continue in full force and effect.

(Ord. No. 835, 3-4-96)

Sec. 86-322 – 86-330. Reserved.

DIVISION 8. CONFLICT

Sec. 86-331. Generally.

All other Ordinances and parts of other Ordinances or other provisions of this Code inconsistent or conflicting with any part of this Article are hereby repealed to the extent of such inconsistency or conflict.

(Ord. No. 835, 3-4-96)

Chapters 87—89

RESERVED

Chapter 90

VEHICLES FOR HIRE*

***Cross reference(s)--**Businesses, ch. 14; streets, sidewalks and other public places, ch. 74; traffic and vehicles, ch. 82.

Article I. In General

Secs. 90-1--90-25. Reserved.

Article II. Taxicabs

Sec. 90-26. Definitions.
Sec. 90-27. Penalty for violation of article.
Sec. 90-28. Business license required.
Sec. 90-29. Insurance or bond.
Sec. 90-30. License fee; transferral of license.
Sec. 90-31. Assignment of license.
Sec. 90-32. Termination of license; revocation.
Sec. 90-33. Operating regulations.
Sec. 90-34. Maintenance of vehicles; inspections.

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ARTICLE I. IN GENERAL

Secs. 90-1--90-25. Reserved.

ARTICLE II. TAXICABS

Sec. 90-26. Definitions.

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

Taxicab means and includes every motor vehicle transporting passengers for hire upon any public street of the city, not over a regular or defined route, regardless of whether or not such transportation extends beyond the corporate limits of the city.

(Code 1965, Sec. 34.01; Ord. No. 678, Sec. 1(34.01), 3-3-86)

Cross reference(s)--Definitions generally, Sec. 1-2.

Sec. 90-27. Penalty for violation of article.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties prescribed in section 1-13.

(Code 1965, Sec. 34.11; Ord. No. 678, Sec. 1(34.09), 3-3-86)

Sec. 90-28. Business license required.

It shall be unlawful for any person to operate or cause to be operated any taxicab upon any public street of the city without first having obtained a business license in accordance with the provisions of this article.

(Code 1965, Sec. 34.02; Ord. No. 678, Sec. 1(34.02), 3-3-86)

Sec. 90-29. Insurance or bond.

(a) No license shall be issued until the applicant shall submit and obtain the city manager's approval of a policy of insurance or a surety bond executed by a reputable company duly authorized by the law of the state to do such insurance or surety business in this state, conditioned to pay all losses and damages proximately caused by or resulting from the negligent operation, maintenance or use of any of the motor vehicles licensed as taxicabs, or for loss or damage to the person or property of others in at least the following minimum amounts:

(1) For bodily injuries to or death of one person, $100,000.00.

(2) For bodily injuries to or death of all persons injured or killed in any one accident, $300,000.00.

(b) The applicant is advised that the insurance coverage indicated in subsection (a) of this section is in the amounts recommended by the city. However, the applicant must show evidence of having insurance coverage for property damage and public liability arising from the operation of each taxicab or other vehicle for hire, in the amount of not less than that required for any licensed vehicle under the financial responsibility provision of the Michigan Vehicle Code (MCL 257.1 et seq., MSA 9.1801 et seq.), as amended.

(Code 1965, Sec. 34.05; Ord. No. 678, Sec. 1(34.03), 3-3-86)

Sec. 90-30. License fee; transferral of license.

The license fee under the provisions of this article has been set at $10.00 per taxicab, and the license is not transferable from one taxicab to another.

(Code 1965, Sec. 34.06; Ord. No. 678, Sec. 1(34.04), 3-3-86)

Sec. 90-31. Assignment of license.

No license issued under the provisions of this article shall be assigned without the approval of the city manager.

(Code 1965, Sec. 34.07; Ord. No. 678, Sec. 1(34.05), 3-3-86)

Sec. 90-32. Termination of license; revocation.

A license granted under the provisions of this article shall be issued and renewed on a license year basis beginning June 1 and ending May 31, until it shall be terminated in one of the following ways:

(1) Any such license shall terminate automatically upon the termination or cancellation of the policy of insurance or surety bond provided for by section 90-29 unless a new policy shall be submitted and approved within ten days from such termination or cancellation.

(2) Any such license may be revoked by the city manager if he shall find that the licensee has continuously failed to comply with the terms and provisions of this article. Such licensee shall be entitled to a hearing before the city council after reasonable notice and upon written specification of the grounds for such proposed termination.

(Code 1965, Sec. 34.08; Ord. No. 678, Sec. 1(34.06), 3-3-86)

Sec. 90-33. Operating regulations.

(a) *Age; chauffeur's license.* No taxicab shall be driven or operated by any person under the age of 18 years, nor by any person who does not have a state chauffeur's license.

(b) *Serving patrons.* The driver of any taxicab shall transport any passenger engaged in the taxicab safely and expeditiously to his destination in the most direct and accessible route. No driver shall refuse or neglect to convey any orderly person, upon request, unless previously engaged.

(c) *Fares.* The driver of any taxicab shall collect from all passengers, without deviation or discrimination, the fare as posted in the taxicab, a copy of which is to be submitted to the city manager. Any time the fare is changed, the city manager is to be notified.

(d) *Payment of fare.* It shall be unlawful for any persons to refuse to pay the legal fare after having hired a taxicab with intent to defraud the person from whom it is hired of the value of such services.

(e) *Passengers, treatment.* All drivers of taxicabs shall be neat, clean and courteous at all times. Passengers shall ride in the rear seat and may not sit in the front seat with the driver unless the rear seat is filled.

(Code 1965, Sec. 34.09; Ord. No. 678, Sec. 1(34.07), 3-3-86)

Sec. 90-34. Maintenance of vehicles; inspections.

Each taxicab shall be maintained in safe operating condition and shall be kept clean at all times. The police department shall make proper inspection of each taxicab operating in the city at least every six months to determine its fitness for operating as a taxicab. The semiannual inspection for safety purposes is an added condition to a renewal of the license.

(Code 1965, Sec. 34.10; Ord. No. 678, Sec. 1(34.08), 3-3-86)

Chapter 129

TELECOMMUNICATIONS PROVIDERS

Sec. 129-1. Purpose.
Sec. 129-2. Conflict.
Sec. 129-3. Terms Defined.
Sec. 129-4. Permit Required.
Sec. 129-5. Issuance of Permit.
Sec. 129-6. Construction/Engineering Permit.
Sec. 129-7. Conduit or Utility Poles.
Sec. 129-8. Route Maps.
Sec. 129-9. Repair of Damage.
Sec. 129-10. Establishment and Payment of Maintenance Fess.
Sec. 129-11. Modification of Existing Fees.
Sec. 129-12. Savings Clause.
Sec. 129-13. Use of Funds.
Sec. 129-14. Annual Report.
Sec. 129-15. Cable Television Operators.
Sec. 129-16. Existing Rights.
Sec. 129-17. Compliance.
Sec. 129-18. Reservation of Police Powers.
Sec. 129-19. Severability.
Sec. 129-20. Authorized City Officials.
Sec. 129-21. Municipal Civil Infraction.

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*__Editor's note__-Authorization for inclusion of Ch. 129 of this Code was provided by Ord. No. 907, adopted November 18, 2002.

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Sec. 129-1. 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 to exercise 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) and other applicable law, and to ensure that the City qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. No. 907, 11-18-02)

Sec. 129-2. Conflict.

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

(Ord. No. 907, 11-18-02)

Sec. 129-3. Terms Defined.

The terms used in this chapter shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

City means the City of South Haven.

City Council means the City Council of the City of South Haven 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 Council.

City Manager means the City Manager or his or her designee.

Permit means a nonexclusive 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.

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:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to the Act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term “Commission” in the Act.

Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

Public Right-of-Way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication Facilities or *Facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and 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 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications Provider, *Provider* and *Telecommunications Services* mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 USC 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:

(1) A cable television operator that provides a telecommunications service.

(2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.

(3) A person providing broadband internet transport access service.

(Ord. No. 907, 11-18-02)

Sec. 129-4. 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 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 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 Michigan's Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended, 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, an application shall be accompanied by a one-time nonrefundable 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, Act No. 179 of the Public Acts of 1991, as amended, 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, Act No. 179 of the Public Acts of 1991, as amended, shall submit to the City an application for a permit in accordance with the requirements of this chapter. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the $500.00 application fee required under subsection (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 for good cause, as provided in Section 5(4) of the Act.

(Ord. No. 907, 11-18-02)

Sec. 129-5. Issuance of Permit.

(a) Approval or Denial. The authority to approve or deny an application for a permit is 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 forty-five (45) days from the date a telecommunications provider files an application for a permit in accordance with Section 129.004(b) of this chapter for access to a public right-of-way within the City. 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 Secs. 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 use of the public right-of-way.

(d) Bond Requirement. Pursuant to Section 15(3) of the Act, and without limitation on subsection (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. No. 907, 11-18-02)

Sec. 129-6. Construction/Engineering Permit.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the City without first obtaining a construction or engineering permit as required under law for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. No. 907, 11-18-02)

Sec. 129-7. Conduit or Utility Poles.

In accordance with the Act, obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 907, 11-18-02)

Sec. 129-8. 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 electronic format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

(Ord. No. 907, 11-18-02)

Sec. 129-9. Repair of Damage.

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. No. 907, 11-18-02)

Sec. 129-10. Establishment and Payment of Maintenance Fee.

In addition to the non-refundable application fee paid to the City set forth in Section 129-4(d) above, 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. No. 907, 11-18-02)

Sec. 129-11. Modification of Existing Fees.

In compliance with the requirements of Section 13(1) of the Act, the City hereby modifies, to the extent necessary, fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and use 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 telecommunication facilities in public rights-of-way within the City's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The City shall provide each telecommunications provider affected by the fee 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. No. 907, 11-18-02)

Sec. 129-12. 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 Section 129-11 above shall be void from the date the modification was made.

(Ord. No. 907, 11-18-02)

Sec. 129-13. Use of Funds.

Pursuant 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. No. 907, 11-18-02)

Sec. 129-14. 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. No. 907, 11-18-02)

Sec. 129-15. 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. No. 907, 11-18-02)

Sec. 129-16. 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. No. 907, 11-18-02)

Sec. 129-17. Compliance.

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

(1) Exempting certain route maps from disclosure consistent with the Act and state law as provided in Section 129-4(c) of this chapter;

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 129-4(f) of this chapter;

(3) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the City, in accordance with Section 129-5(a) of this chapter;

(4) Notifying the MPSC when the City has granted or denied a permit, in accordance with Section 129-5(a) of this chapter;

(5) Not unreasonably denying an application for a permit, in accordance with Section 129-5(a) of this chapter;

(6) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 129-5(b) of this chapter;

(7) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider’s access and use of the public right-of-way, in accordance with Section 129*5(c) of this chapter;

(8) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider’s access and use, in accordance with Section 129-5(d) of this chapter;

(9) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 129-6 of this chapter;

(10) Providing each telecommunications provider affected by the City's right-of-way fees with a copy of this chapter, in accordance with Section 129-11 of this chapter;

(11) Submitting an annual report to the Authority, in accordance with Section 129-14 of this chapter; and

(12) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 129-15 of this chapter.

(Ord. No. 907, 11-18-02)

Sec. 129-18. 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. No. 907, 11-18-02)

Sec. 129-19. Severability.

The various parts, sentences, paragraphs, sections, and clauses of this chapter are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this chapter is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this chapter.

(Ord. No. 907, 11-18-02)

Sec. 129-20. Authorized City Officials.

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

(Ord. No. 907, 11-18-02)

Sec. 129-21. 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 such civil infraction fines and costs as provided for in this City Code. Nothing in this Section 129.021 shall be construed to limit the remedies available to the City in the event of a violation by a person of this chapter or a permit.
(Ord. No. 907, 11-18-02)