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**CITY OF MASON  
ORDINANCE NO. 222**

AN ORDINANCE TO AMEND DIVISION 2 OF CHAPTER 2 BY AMENDING ITS TITLE AND AMENDING SECTION 2-81, CREATION OF OFFICE, TO DESIGNATE THE CITY ADMINISTRATOR AS CITY MANAGER AND TO SUBSTITUTE THE TERM “CITY MANAGER” FOR “CITY ADMINISTRATOR” IN SECTION 1-13 OF CHAPTER 1, SECTION 2-2 OF CHAPTER 2, SECTION 2-82 THROUGH 2-84, SECTION 2-85, AND ITS TITLE, SECTION 2-86 THROUGH 2-90, SECTION 2-103, SECTION 2-104, SECTION 2-106, SECTION 2-121, SECTION 2-122, SECTION 2-124, SECTION 2-141, SECTION 2-142, SECTION 2-253, SECTION 2-353 OF CHAPTER 2, SECTION 6-71 OF CHAPTER 6, SECTION 14-32 OF CHAPTER 14, SECTION 22-36, SECTION 22-62, SECTION 22-63 OF CHAPTER 22, SECTION 26-202 OF CHAPTER 26, SECTION 42-206, SECTION 42-207 OF CHAPTER 42, SECTION 46-33, SECTION 46-34 OF CHAPTER 46, SECTION 52-8, SECTION 52-29 OF CHAPTER 52, SECTION 58-3 OF CHAPTER 58, SECTION 62-34 OF CHAPTER 62, SECTION 66-19 OF CHAPTER 66, SECTION 70-101 THROUGH SECTION 70-104, SECTION 70-106 THROUGH SECTION 70-108, SECTION 70-110 OF CHAPTER 70, SECTION 74-78, SECTION 74-163, SECTION 74-201 OF CHAPTER 74, SECTION 75-21, SECTION 75-22, SECTION 75-24, SECTION 75-52 OF CHAPTER 75, SECTION 82-5 THROUGH SECTION 82-7, SECTION 82-32, SECTION 82-35, SECTION 82-64, SECTION 82-71, SECTION 82-101, SECTION 82-111, SECTION 82-161, SECTION 81-262, SECTION 82-271 OF CHAPTER 82, SECTION 86-34 OF CHAPTER 86, SECTION 90-59, SECTION 90-89, SECTION 90-90 OF CHAPTER 90, AND SECTION 94-62, SECTION 94-362, SECTION 94-394 OF CHAPTER 94 OF THE CITY CODE OF THE CITY OF MASON.

THE CITY OF MASON ORDAINS

1. Section 2-81 to 2-90, the title to Division 2 of Article III and the title of Section 2-85 of Chapter 2 shall be amended to read as follows:

**DIVISION 2. CITY ADMINISTRATOR; CITY MANAGER**

**Sec. 2-81. Creation of Office.**

The office of city administrator is created, which officer shall be known as City Manager. Every reference to the term City Administrator in ordinances, resolutions, notices and the City Charter

shall mean City Manager.

**Sec. 2-82. Appointment.**

The city manager shall be appointed by majority vote of the council for an indefinite term. The city manager shall be chosen by the council solely on the basis of his executive and administrative qualifications, his engineering experience and training with special reference to his actual experience in or his knowledge of accepted practice in respect to the duties of his office. At the time of his appointment he need not be a resident of the city or the state, but during his tenure of office he shall reside within the city. No councilmember shall receive such appointment during the term for which he shall have been elected.

**Sec. 2-83. Removal.**

The city manager may be removed by the council by a majority vote of its members. The city manager may demand written charges or a written statement of the reasons for removal which the council shall furnish to the city manager within 20 days after the filing of such request. During this period the city manager may be suspended from office with pay. The action of the council in removing the city manager shall be final.

**Sec. 2-84. Powers and duties.**

The city manager shall be the executive officer and head of the administrative branch of the city. He shall be responsible to the city council for the proper administration of all affairs of the city, and to that end, subject to the personnel provisions of the Charter, he shall have power and shall be required to:

- (1) Recommend to the council the appointment of officers of the city who are required by law to be elected by the city council. He shall further recommend the removal or suspension of any such officers when such removal or suspension shall be consistent with the best interest of the city. All such recommendations for appointment or removal shall be based upon merit and upon the qualifications or disqualifications of such officer without regard to any political belief or affiliation. He shall further appoint, and when necessary for the good of the service, suspend or remove any employee of the city except as otherwise provided by the Charter or law, and except as he may authorize the head of a department or office to appoint, suspend or remove subordinates in such department or office.
- (2) Prepare the budget annually and submit it to the council and be responsible for its administration after adoption.
- (3) Prepare and submit to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.
- (4) Keep the council advised of the financial condition and future needs of the city, and make such recommendations as he may deem desirable.
- (5) Recommend to the council the salaries to be paid each appointive officer and subordinate employee of the city.
- (6) Recommend to the council, in writing, for adoption such measures as he may deem necessary or expedient.
- (7) Consolidate or combine offices, positions, departments or units under his jurisdiction, with the approval of the city council. The city manager may be the head of one or more departments.
- (8) Attend all meetings of the city council unless excused from such meetings by the council, except when his removal is under consideration by the council. The city manager shall have the privilege of taking part in the discussion of all matters coming before the council. The city manager shall be entitled to notice of all meetings, regular and special, of the council.
- (9) Purchase all materials, supplies or equipment for which funds are provided in the budget

appropriation; but he may not purchase any item which exceeds any budget appropriation until the council has increased the appropriation. For purchases of more than \$5,000.00 and less than \$20,000.00, he shall be required to receive approval of the council; for purchases of more than \$20,000.00, he shall be required to receive sealed bids and shall present such bids to the council for approval or rejection. He may let contracts not in excess of \$5,000.00 necessary in the operation or maintenance of city services when sufficient funds for such purposes have been appropriated in the budget, but the city council shall let all contracts for more than \$5,000.00, all contracts for new construction and all contracts which cannot be consummated with funds provided in the current budget. The city manager shall advise the council as to whether or not any contract offered is desirable, or which of several contracts offered is most desirable, for the city. The city manager may issue such rules and regulations governing requisitions and the transaction of the business of purchasing between himself as purchasing agent and the heads of the departments, officers and employees of the city as the council may approve.

(10) See that all laws and ordinances are duly enforced.

(11) Make investigations into the affairs of the city or any department or division of the city. Investigate all complaints in relation to all matters concerning the administration of the government of the city and in regard to service maintained by the public utilities in the city, and see that all franchises, permits and privileges granted by the city are faithfully observed.

(12) Devote his entire time to the discharge of his official duties.

(13) Perform such other duties as may be required of him by the council, not inconsistent with the Charter, law or ordinance.

**Sec. 2-85. Councilmembers to deal with administrative service only through city manager.**

Individual members of the council shall not direct or request the appointment of any person to or his removal from office by the city manager or by any of his subordinates, or in any manner attempt to dictate the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, councilmembers shall deal with the administrative service solely through the city manager; and no councilmembers shall give orders to any subordinates of the city manager either publicly or privately.

**Sec. 2-86. Emergencies.**

In case of accidents or other circumstances creating an emergency, the city manager may, with the consent of the council, award contracts and make purchases for the purpose of repairing damages caused by the accident or meeting the public emergency; but he shall file promptly with the council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.

**Sec. 2-87. Bond.**

The city manager shall furnish a surety bond in an amount to be approved by the council, such bond to be conditioned on the faithful performance of his duties. The premium of the bond shall be paid by the city.

**Sec. 2-88. Compensation.**

The city manager shall receive such compensation as the council shall fix by ordinance or resolution.

**Sec. 2-89. Vacancy.**

Any vacancy in the office of city manager shall be filled within 60 days after the effective date of such vacancy.

**Sec. 2-90. Acting city manager.**

In the event of disability of the city manager, the council may appoint an acting city manager.

2. Section 1-13 of Chapter 1 shall be amended to read as follows:

**Sec. 1-13. Municipal civil infractions.**

(a) *Officials authorized to issue citations and violation notices.* The following personnel of the city shall have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices and shall be deemed an authorized city official pursuant to this article:

- (1) Sworn police officers.
- (2) Building official.
- (3) City manager or his or her designee.
- (4) Zoning and development director.
- (5) Fire chief.
- (6) Any person specifically designated as authorized to issue a municipal civil infraction citation or notice by any provision of this code.

(b) *Municipal civil infraction action; commencement.* A municipal civil infraction action may be commenced upon the issuance by an authorized city official of a municipal civil infraction citation directing the alleged violator to appear in court or a municipal civil infraction violation notice directing the alleged violator to appear at the city municipal ordinance violations bureau.

(c) *Issuance, service of citation.* Municipal civil infraction citations shall be issued and served by authorized city officials as follows:

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

(2) The place for appearance specified in a citation shall be the 55th District Court.

(3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by section 8705 of 1961 PA 236 (MCL 600.8705).

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

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

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

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

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

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

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

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

(d) *Contents of citation.*

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

(2) Further, the 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 by the time specified for appearance or in person or by representation.

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

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

2. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(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 for appearance and obtain a scheduled date and time 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.

(e) *Failure to appear; penalty.* Failure to appear as directed by the citation or other notice at a scheduled hearing shall result in the entry of a default judgment on the municipal civil infraction. (Ord. No. 154, 5-7-2007)

3. Section 2-2 of Chapter 2 shall be amended to read as follows:

**Sec. 2-2. Location; supervision; employees; rules and regulations.**

The Bureau shall be located at city hall, and shall be under the supervision and control of the city treasurer. The city treasurer, subject to the approval of the city manager, shall adopt rules and regulations for the operation of the bureau and appoint necessary qualified city employees to administer the Bureau. The Bureau may be staffed by the same personnel that staff the parking violations bureau.

4. Section 2-103 of Chapter 2 shall be amended to read as follows:

**Sec. 2-103. Definition.**

In this article "city official" means a person elected to the city council or appointed to the planning commission, zoning board of appeals, historic district commission, building code board of appeals, downtown development authority, local development finance authority or board of review. City official shall not include city manager or city clerk.

5. Section 2-104 of Chapter 2 shall be amended to read as follows:

**Sec. 2-104. Prohibited conduct.**

(a) *Gifts:* A city official shall not, directly or indirectly, solicit or accept a gift that could influence the manner in which they perform their official duties.

(b) *Preferential treatment:* A city official shall not use his official position to unreasonably secure, request, or grant any privileges, exemptions, advantages, contracts, or preferential treatment for himself, his immediate family, or others.

(c) *Use of information:* A city official who acquires information in the course of his official duties, which by law or policy is confidential, shall not prematurely divulge that information to an unauthorized person. Information which is deemed exempt from disclosure under the Michigan Freedom of Information Act, (MCL 15.231 et seq.) or which is the subject of a duly called closed meeting held in accordance with the Michigan Open Meetings Act, (MCL 15.261 et seq.) is confidential. A city official shall not suppress or refuse to provide city reports or other information which is publicly available.

(d) *Conflicts of interest:*

(1) No person may be employed as a sworn police officer if such person and/or his spouse has an interest, directly or indirectly, in any business possessing any license issued by the Michigan Liquor Control Commission and operated within the jurisdiction of the Mason Police Department.

(2) The city building official shall not do any work for hire or have any interest, directly or indirectly, in any business doing work for hire within the city which requires a permit pursuant to the state construction code.

(3) The city assessor shall not assess for city record keeping purposes his own property.

(4) No city official shall engage in employment, render services, or engage in any business, transaction or activity which is in direct conflict of interest with his official duties.

(5) No city official may use any confidential information obtained in the exercise of his official duties for personal gain or for the gain of others.

(6) No city official shall intentionally take or refrain from taking any official action, or induce or attempt to induce any other city official or employee to take or refrain from taking any official

action, on any matter before the city which would result in a financial benefit for any of the following:

- a. The city official.
- b. An immediate family member.
- c. An outside employer.
- d. Any business in which the city official or any immediate family member of the city official has a financial interest of the type described in subsection 2-105(b)(1).
- e. Any business with which the city official or any immediate family member of the city official is negotiating or seeking prospective employment or other business or professional relationship.

(7) An appointed city official shall not discuss any matter pending before the body on which the appointed city official serves with the applicant or any person to whom written notice of the matter pending is required to be sent by city ordinance or other law except during duly called public meetings of the body. In the case of an inadvertent discussion between the appointed city official and the applicant or any person to whom written notice is required to be sent as described, such discussion shall be disclosed as a transaction in accordance with subsection 2-105(e).

(8) Except as otherwise permitted herein, no city official or any immediate family member of a city official shall be a party, directly or indirectly, to any contract with the city except for collective bargaining agreements. The foregoing shall not apply if the contract is awarded after public notice and competitive bidding, provided that the city official shall not have participated in establishing contract specifications or awarding the contract, shall not manage contract performance after the contract is awarded, and shall disclose the interest of the city official or any immediate family member in the contract in accordance with section 2-105(e).

(9) A city official shall not engage in a business transaction with the city except as permitted by Public Act No. 317 of 1968 (MCL 15.231 et seq.). Compliance with the requirements of said Act shall constitute compliance with subsection 2-104(d).

(e) *Use of city property or personnel:* A city official shall not, directly or indirectly, use or permit any other person to use any city property or personnel for personal gain or economic benefit. City employees may use city property for personal use as a convenience if first approved by the city manager or authorized by city policy.

(f) *Political activity:* No city official shall use any city time or property for his own political benefit or for the political benefit of any other person seeking elective office, provided that the foregoing shall not prohibit the use of property or facilities available to the general public on an equal basis for due consideration paid.

(g) *Nepotism:* The spouse of any elected city official, or of the city manager, shall be disqualified from holding any appointive office. The immediate family members of any elected city official, or of the city manager, and the spouses of any such family members shall be disqualified from holding full-time or permanent part-time employment exceeding ten hours per week with the city during the term served by said elected official or during the tenure of the city manager. This section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the city at the time of the election of said elected official or appointment of said city manager.

(h) *Retaliation:* No person making a complaint or requesting an advisory opinion, or participating in any proceeding of the board of ethics, shall be discharged, threatened, or otherwise discriminated against regarding compensation, terms, conditions, location, or

privileges of employment or contract because of such action or participation.

6. Section 2-106 of Chapter 2 shall be amended to read as follows:

**Sec. 2-106. Board of ethics.**

(a) *Creation.* There is hereby created an independent body called the "board of ethics."

(b) *Objective.* The objective of the board of ethics is to issue written opinions regarding ethical, not legal, questions and to engage in activities which will promote ethical behavior.

(c) *Board membership; terms; meetings; rules.*

(1) The board of ethics shall consist of five members who are city residents appointed by the mayor with the approval of the city council. City officials and the immediate family of city officials shall not be eligible for appointment to the board.

(2) Members shall be appointed for terms of three years, except that of those first appointed, two shall serve for three years, two shall serve for two years, and one shall serve for one year. Initial nominations shall be made by the mayor within 90 days of the effective date of this division, and nominations to fill vacancies and subsequent terms shall be made by the mayor within 60 days of occurrence of the vacancy or commencement of the term. The city council shall vote on confirmation within 30 days of receipt of nominations from the mayor. If nominations are not made within the periods specified, the city council shall appoint the member(s). If the city council shall not vote on confirmation within the period specified, the mayor's nominations shall be deemed confirmed and the member(s) shall be appointed.

(3) The affirmative vote of three members of the board of ethics shall be necessary for any action.

(4) The city clerk shall serve on an ex officio basis as secretary to the board without the right to vote.

(5) The board of ethics shall meet as frequently as necessary to promptly perform appointed duties. Meetings of the board shall be subject to the Michigan Open Meetings Act (MCL 15.26 et seq.).

(6) The board of ethics may adopt interpretative rules and procedures relating to the requirements and application of this division.

(7) The board of ethics shall conduct meetings in accordance with the rules of order adopted by the city council.

(d) *Powers and duties.* The board of ethics shall have the power to:

(1) Receive requests for advisory opinions from city officials.

(2) Receive complaints concerning alleged unethical conduct by a city official from any person or entity.

(3) Receive and retain on file copies of advisory opinions, disclosure statements, and other materials required to be filed under this division.

a. Advisory opinions shall be retained indefinitely.

b. Disclosure statements shall be retained throughout the tenure of the city official plus two years after the completion of said tenure.

c. Other materials required to be filed under this division shall be retained for ten years.

(4) Review the request for advisory opinion or the complaint to determine if the board has jurisdiction over the matter and/or persons identified in the request or complaint.

(5) If a complaint concerns an employee, the sole power of the board shall be to forward the complaint with no action forthwith to the city manager. The board of ethics shall have no power

or jurisdiction concerning employees except as specifically set forth in subsection 2-106(d)(5).

(6) Inquire into the circumstances surrounding alleged unethical conduct. The board of ethics, upon its own, may initiate an inquiry. The board is hereby authorized to exercise all of the powers granted by Chapter 6, Section 6.9, of the City Charter, except that the board shall not have the power to subpoena witnesses or compel the production of books, papers, and other evidence. The board may seek the assistance and opinion of the city attorney in the investigation of a matter. In the event that the city attorney is the subject of an investigation, the board may, subject to prior approval of a written retainer agreement by the city council, seek outside counsel in the investigation of a matter.

(7) Issue advisory opinions in response to complaints and requests and on its own motion. Advisory opinions of the board of ethics shall be maintained in the office of the city clerk and shall be available to the public upon request.

(8) Adopt and maintain disclosure forms, which may be revised by the board of ethics from time to time.

(9) Report to the mayor and the city council from time to time, but not less often than annually, regarding such matters pertaining to this division as the board deems appropriate, which may include, but not be limited to, the degree to which the policy of this division is being achieved; the numbers and nature of requests for advisory opinions and complaints and the ultimate disposition thereof; the implementation and effectiveness of this division; and any changes in this division recommended to more fully achieve the purposes and policy of this division.

(e) *Board actions.* Action to be taken in any individual case may include the following:

(1) Issue a written advisory opinion.

(2) Deem no action to be required.

(3) Refer the matter to the city attorney to determine whether legal action may be appropriate and what form by which to take such action.

(f) *Confidentiality and due process.* The board of ethics shall to the fullest extent permitted by law keep all complaints and requests for advisory opinions strictly confidential. All persons alleged to have violated this division shall be notified of said allegations and afforded the opportunity to be heard.

(g) *Advisory opinions.*

(1) The board of ethics may issue written advisory opinions interpreting this division and its provisions and relevant provisions of state law applicable to city officials. Advisory opinions shall not disclose the identities of the person or entity making the request for an advisory opinion or the identity of the persons or positions who are the subject of a complaint or inquiry. Advisory opinions shall be issued within 60 days of a request. If additional time is needed, the time may be extended by action of the board.

(2) Advisory opinions may include guidance to any city official on questions including, but not limited to:

a. Whether an identifiable conflict of interest exists between his personal interests or obligations and his official duties.

b. Whether his participation in his official capacity would involve discretionary judgment with significant effect on the disposition of the matter in question.

c. Whether the result of the potential conflict of interest is substantial or constitutes a real threat to the independence of his judgment.

d. Whether he possesses certain knowledge or skill which the city will require to achieve a

sound decision.

e. What effect his participation under the circumstances would have on the confidence of the people in the impartiality of city officials.

f. Whether a disclosure of his personal interests would be advisable and, if so, how such disclosure should be made.

g. Whether the public interest would be best served by his withdrawal or abstention.

h. Whether undue influence is being exerted on him.

(3) When the board of ethics issues an advisory opinion regarding ethical questions pursuant to this section, the board shall promptly send a copy of its opinion to:

a. The individual who requested the opinion;

b. The city official affected;

c. The mayor;

d. The city manager.

(4) The board shall publicize summaries of its advisory opinions to all city officials.

7. Section 2-121 of Chapter 2 shall be amended to read as follows:

**Sec. 2-121. Authorization.**

For purposes of this division and the Emergency Management Act, Public Act No. 390, 1976, the city manager shall be deemed the city's designated emergency response coordinator. The city manager is hereby authorized and directed to prepare and execute a support emergency operations plan to incorporate the city into the County Emergency Management Program consistent with Public Act No. 390, 1976, as amended, and the emergency management rules adopted pursuant to the Act.

8. Section 2-122 of Chapter 2 shall be amended to read as follows:

**Sec. 2-122. Emergency management coordinator.**

The city manager may appoint an emergency management coordinator for the city to act for and at the direction of the city manager in the coordination of all matters pertaining to emergency management, disaster mitigation, preparedness, response, and recovery activities within the city. The city manager shall appoint such other persons as are necessary for the implementation and management of the support emergency operations plan and shall designate the duties and responsibilities of each individual appointed to administer the plan.

9. Section 2-124 of Chapter 2 shall be amended to read as follows:

**Sec. 2-124. Limitation of authority.**

Nothing herein nor in the support emergency operations plan adopted hereunder shall be construed to abridge or curtail the powers of the mayor, the city council, the city manager, or other city official or employee who is provided independent authority to deal with any emergency situation either by charter, statute, ordinance, or common law.

10. Section 2-141 of Chapter 2 shall be amended to read as follows:

**Sec. 2-141. Established.**

A city zoning and development department under the jurisdiction of a zoning and development director is established as a city administrative office under Chapter 4 of the Charter. References in this Code to zoning official or zoning administrator mean the zoning and development director established by this section. References in the city ordinances to building inspector or building official means a person registered under the Michigan Building Officials and Inspectors Registration Act, Public Act No. 54, 1986, who has been designated by the city as responsible for enforcing the provisions of the state building code for the city. The zoning and development director shall be appointed by the city manager, subject to the provisions of the Charter.

11. Section 2-142 of Chapter 2 shall be amended to read as follows:

**Sec. 2-142. Powers and duties of building and zoning officials.**

(a) The building official shall administer and enforce the provisions of the Michigan Building Code as promulgated by rule of the State Construction Code Commission pursuant to Section 4 of Public Act No. 230 of 1972 (MCL 125.1504), and the city assumes responsibility for administration and enforcement of Act 230, pursuant to Section 9 of the Act (MCL 125.1509), throughout the corporate limits of the city. The building inspector shall also administer and enforce the provisions of chapter 6, article II (building code board of appeals), and article IV - property maintenance.

(b) The zoning and development director, or designee, shall administer the provisions of the following ordinances and shall have all the powers and duties enumerated in such ordinances, except such duties as may be specifically delegated in any of the ordinances listed below to the city engineer or other particular department or official.

- (1) Chapter 6, article III (dangerous buildings);
- (2) Chapter 22 (environment);
- (3) Chapter 30 (floods);
- (4) Chapter 31 (historic preservation)
- (5) Chapter 58 (signs)
- (6) Chapter 74 (subdivisions and other divisions of land);
- (7) Chapter 86, article II (noxious weeds);
- (8) Chapter 94 (zoning);

The zoning and development director shall also be impressed with those functions as may be specifically assigned to him by any other ordinances adopted by the city. The zoning and development director may appoint such officers, inspectors and assistants, and other employees as shall be authorized by the city manager.

12. Section 2-253 of Chapter 2 shall be amended to read as follows:

**Sec. 2-253. Duties.**

The commission, in addition to the functions and responsibilities that the city council or city manager may delegate to it from time to time by resolution, shall review plans and suggest and assist in the development of locally originated programs. It shall also have those functions assigned to it by any cable television franchise agreement.

13. Section 2-353 of Chapter 2 shall be amended to read as follows:

**Sec. 2-353. Duties.**

The commission, in addition to the functions and responsibilities that the city council or city manager may delegate to it from time to time, shall periodically review the financial condition of the municipal water and sewer systems for the city. The review shall include, as appropriate, an analysis of revenues and expenditures, costs for operation and maintenance, rates and fees charged by other municipal systems, and capital improvement needs. The commission shall prepare a report and recommendation to the city council with regard to water and sewer rates and fees on a bi-annual basis or more often as requested by the city council or by the city manager.

14. Section 6-71 of Chapter 6 shall be amended to read as follows:

**Sec. 6-71. Definitions.**

For purposes of this article, words and terms used herein shall have the meanings ascribed to them in this section, unless indicated to the contrary:

*Designated enforcement official means the city manager, zoning and development director, building official, and such other individual designated by resolution of the city council to enforce this article.*

*Hearing officer; officer means the hearing officer provided for in section 6-76.*

15. Section 14-32 of Chapter 14 shall be amended to read as follows:

**Sec. 14-32. Duties of director.**

The director of parks and cemeteries shall have the exclusive right, and it shall be his duty, to dig all graves, open graves when properly required, report all burials, removal of bodies, and reburials to the city clerk, as well as such other matters as may be required by resolution of the city council. He shall further superintend the grounds of the city cemeteries; keep their walks, drives and fences in good condition and repair; and see that the provisions of this article are properly observed, reporting to the city manager any violations that shall come to his knowledge.

16. Section 22-36 of Chapter 22 shall be amended to read as follows:

**Sec. 22-36. Regulations.**

The commercial and noncommercial use of sound amplifying equipment shall be subject to the following regulations:

- (1) The only sounds permitted shall be either music or human speech, or both.
- (2) The operation of sound amplifying equipment shall only occur between the hours of 10:00 a.m. and 10:00 p.m. each day. No operation of sound amplifying equipment for commercial purposes shall be permitted on Sundays or legal holidays.
- (3) No sound emanating from sound amplifying equipment shall exceed a volume adequate to serve its purpose as determined by the regulating authority.
- (4) The volume of sound shall be so controlled that it will not be unreasonably loud, raucous, jarring, disturbing or a nuisance to reasonable persons of normal sensitiveness within the area of audibility.

(5) The user of sound amplifying equipment shall comply with such additional requirements and regulations as shall be promulgated by the city manager and approved by the city council.

17. Section 22-62 of Chapter 22 shall be amended to read as follows:

**Sec. 22-62. Registration requirements and duties.**

Every user of sound amplifying equipment shall file a registration statement with the city clerk 21 days prior to the date on which the sound amplifying equipment is intended to be used, which statement shall contain the following information:

(1) The name, address and telephone number of both the owner and user of the sound amplifying equipment.

(2) The maximum sound producing power of the sound amplifying equipment, which shall include the wattage to be used, the volume in decibels of sound which will be produced, and the approximate distance for which sound will be audible from the sound amplifying equipment.

(3) The license and motor number if a sound truck is to be used.

(4) The purpose for which the sound amplifying equipment will be used.

(5) Such other information as may be required under registration standards and administrative regulations promulgated by the city manager and approved by the city council.

18. Section 22-63 of Chapter 22 shall be amended to read as follows:

**Sec. 22-63. Registration approval or disapproval.**

(a) The city clerk shall return to the applicant an approved copy of the registration statement unless:

(1) The conditions of the motor vehicle movement are such that use of the equipment would constitute a detriment to traffic safety;

(2) The conditions of pedestrian movement are such that use of the equipment would constitute a detriment to traffic safety; or

(3) The city manager determines that the equipment will create unreasonable or unnecessary noise contrary to subsections (a)(1) and (2) of this section, or violates the regulations of section 22-36.

(b) If after advertising for comments on the proposed registration objections are raised by more than 50 percent of the households within hearing range (as stated in section 22-62), the registration will be denied.

(c) If the application is disapproved, the city clerk will endorse upon the application the reasons for disapproval and return it to the applicant.

19. Section 26-202 of Chapter 26 shall be amended to read as follows:

**Sec. 26-202. Responsibility.**

The cleanup of hazardous materials, substances and waste shall be the responsibility of the person who produced, used or consumed such materials, substances and waste. Hazardous materials, substances and waste shall not be disposed of within the city, or allowed to be collected, stored or transported within the city without written approval of the city manager or the fire chief.

20. Section 42-206 of Chapter 42 shall be amended to read as follows:

**Sec. 42-206. Removal of graffiti by perpetrator.**

Any person applying graffiti on public or private property shall have the duty to remove the graffiti within 24 hours after notice by the city or private owner of the property involved. Such removal in the case of public property shall be done in a manner prescribed by the chief of police, the director of the department of public works, or any additional city department head, as authorized by the city manager. Any person applying graffiti shall be responsible for the costs of removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this article. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the costs of removal.

21. Section 42-207 of Chapter 42 shall be amended to read as follows:

**Sec. 42-207. Right of city to remove.**

If graffiti is not removed by the perpetrator as required by section 42-206, graffiti shall be removed pursuant to the following provisions:

(a) *Property owner responsibility.* It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the city to permit property that is defaced with graffiti to remain defaced for a period of ten days after service by first class mail of notice of the defacement. The notice shall contain the following information:

(1) The street address and legal description of the property sufficient for identification of the property;

(2) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;

(3) A statement that the graffiti must be removed within ten days after receipt of the notice and that if the graffiti is not abated within that time the city will declare the property to be a public nuisance, subject to the abatement procedures in sections 2.2(19), and 11.9 of the city charter; and

(4) An information sheet identifying any graffiti removal assistance programs available through the city and private graffiti removal contractors.

(b) *Exceptions to property owner responsibility.* The removal requirements of subsection (a) above shall not apply if the property owner or responsible party can demonstrate to the chief of police or city manager that:

(1) The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or

(2) The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of 15 days after service by first class mail of notice of the defacement.

(c) *Right of city to remove.*

(1) *Use of public funds.* Whenever the city becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the city shall be authorized to use public funds for the abatement of the graffiti nuisance, but shall not authorize or undertake to provide for the painting or repair of any more extensive

an area than that where the graffiti is located, unless the city manager, or his designee, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

(2) *Right of entry on private property.* Prior to entering upon private property or property owned by a public entity other than the city for the purpose of graffiti removal, the city shall attempt to secure the consent of the property owner or responsible party and a release of the city from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this article, or if the city has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the city and consistent with the terms of this section, the city shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.

(d) *Abatement and cost recovery proceedings.*

(1) *Notice of due process hearing.* If the owner has refused consent and the city intends to proceed with abatement, the city manager, or his designee, serving as the hearing officer, shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different from the owner, not less than 48 hours notice of the city's intent to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and testimony that the property does not constitute a public nuisance. Notice shall be served in the same manner as a citation in a civil action in accordance with section 1-13(7) of the code. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten days and mailing by first-class mail to the most current owner of record as shown on the city's tax rolls.

(2) *Determination of hearing officer.* The determination of the hearing officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the owner or the responsible party or their respective agents, the hearing officer determines that the property contains graffiti viewable from a public or quasi-public place, the hearing officer shall give written notice in an abatement order that, unless the graffiti is removed within ten days, the city shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the hearing officer), or such other abatement thereof as the hearing officer determines appropriate, and shall provide the owner with an accounting of the costs of the abatement on a full cost recovery basis.

(3) *Abatement effort.* Not sooner than the time specified in the order of the hearing officer, the city manager, or the designee of the city manager, shall implement the abatement order and shall mail an accounting to the owner and the responsible party of the costs thereof.

(4) *Cost hearing.* The owner or responsible party may, within ten days following date of mailing, request a hearing before the hearing officer on the abatement cost accounting, and appropriate due notice and a due process hearing shall be extended to the owner or responsible party. If, following the hearing, or if no hearing is requested, after the implementation of the abatement order, the total amount set forth in the abatement accounting, or an amount thereof determined as appropriate by the hearing officer, shall be due and payable to the city by the owner or responsible party within 30 days.

(5) *Lien.* If all or any portion of the abatement charges remain unpaid after 30 days, the

portion thereof that remains unpaid shall constitute a lien on the property that was the subject of the abatement effort. The city treasurer shall cause a notice of lien to be recorded with the Ingham County Register of Deeds. If any such charges are not paid within six months after the recording of the lien, the official in charge of the collection shall, prior to May 1 of each year, certify to the tax assessing officer of the city of the facts of such delinquency, whereupon the officer shall enter such delinquent charges upon the next city tax roll as a charge against the premises pursuant to sections 2.2(19) and 11.9 of the city charter and the lien shall be enforced in the same manner as provided by law for delinquent and unpaid taxes.

(6) *Suit.* Unpaid abatement charges shall also constitute a debt owed to the city by the owner or the person occupying and controlling the property which may also be collected by the city by a suit in assumpsit brought in the name of the city against the owner or person occupying or in control of the premises, or both.

22. Section 46-33 of Chapter 46 shall be amended to read as follows:

**Sec. 46-33. Prohibited acts.**

It shall be unlawful for any person using a public park to either perform or permit to be performed any of the following acts:

(1) Willfully mark, deface, disfigure, injure, tamper with, displace, remove or vandalize any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or their parts or appurtenances, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal. A violation of this provision is a misdemeanor.

(2) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of such waters.

(3) Bring in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds of a park, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(4) Endanger the safety of any person by any conduct or act.

(5) Commit any assault or battery or engage in fighting. A violation of this provision is a misdemeanor.

(6) Carry, possess or drink any alcoholic beverage.

(7) Violate any rule for the use of the park made or approved by the city manager.

(8) Prevent any person from using any park, or any of its facilities, or interfere with such use in compliance with this article and the rules applicable to such use.

(9) Swim, bathe or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided in this article, and in compliance with such regulations as are set forth in this article or as may be adopted.

23. Section 46-34 of Chapter 46 shall be amended to read as follows:

**Sec. 46-34. Hours of operation.**

- (a) During the months of May through October, the city parks shall be open daily to the public during the hours of 8:00 a.m. to 10:00 p.m. In addition, Hayes Park and Bond Park may remain open until 11:00 p.m. during organized athletic events sponsored by an area school or other nonprofit sponsoring organization, provided the organization obtains the written approval of the city manager and designates a responsible individual who should be present during the event. No organization shall be granted approval to occupy Hayes Park or Bond Park after 10:00 p.m. for more than two events per week, except that approval may be granted for more than two events per week if determined necessary by the city manager.
- (b) During the months of November through April, the parks shall be opened daily to the public during the hours of 8:00 a.m. to one-half hour after sunset; however, the director of the parks and cemeteries may keep open until 10:00 p.m. those parks he may designate for public ice skating or other organized winter activities sponsored by the city.
- (c) Any section or part of a park may be declared closed to the public by the director of public works/superintendent at any time and for any interval of time, either temporarily or at regular or stated intervals.
- (d) It shall be unlawful for any person (other than city personnel conducting city business) to occupy or be present in any park during any hours in which the park is not open to the public.
- (e) The hours of operation for authorized traffic utilizing the portions of the Hayhoe Riverwalk shall be 6:00 a.m. to 10:00 p.m.
- (f) For the purpose of subsection (e) authorized traffic shall mean walkers, runners, bicyclers, in-line skaters, and those required to use devices to assist the disabled.

24. Section 52-8 of Chapter 58 shall be amended to read as follows:

**Sec. 52-8. Stormwater enforcement: powers and duties of enforcing officials.**

- (a) The public works director shall administer and enforce this chapter, and may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this chapter and may provide such information in the form of a guidance manual.
- (b) The guidance manual may be updated and expanded from time to time, at the discretion of the city manager and with approval of the MDEQ based on improvements in engineering, science, monitoring and local maintenance experience.
- (c) Representatives of the city shall have the right to enter upon any land for the purposes of making an inspection or acquiring information to determine whether or not the property conforms to the requirements of this chapter.

25. Section 52-29 of Chapter 52 shall be amended to read as follows:

**Sec. 52-29. Maintenance agreement.**

- (a) *Purpose of maintenance agreement.* The purpose of the maintenance agreement is to provide the means and assurance that maintenance of stormwater BMPs shall be undertaken.
- (b) *Responsible party.*
  - (1) The responsible party named in the recorded stormwater maintenance agreement shall maintain in good condition and promptly repair and restore all structural and non-structural

stormwater BMPs and all necessary access routes and appurtenances. Such repairs or restoration and maintenance shall be in accordance with the approved storm water management design plan, the stormwater maintenance agreement, and the stormwater maintenance plan.

(2) The responsible party shall make records of installation and of all maintenance and repairs, and shall retain the records for at least five years. These records shall be made available to the city during inspection of the practice and at other reasonable times upon request.

(c) *Maintenance agreement required.*

(1) A maintenance agreement shall be submitted to the city, for review by the public works director and his/her designee and the city attorney, for all development, and shall be subject to approval in accordance with the stormwater plan. A formal maintenance plan shall be included in the maintenance agreement.

(2) Maintenance agreements shall be approved by the city manager prior to final subdivision plat or condominium approval, as applicable, and prior to construction approval in other cases.

(3) A maintenance agreement is not required to be submitted to the city for drains that will be maintained by the county drain commissioner.

(d) *Maintenance agreement provisions.*

(1) The maintenance agreement shall include a plan for routine, emergency, and long-term maintenance of all stormwater BMPs, with a detailed annual estimated budget for the initial three years, and a clear statement that, except for maintenance required as a result of an emergency, only future maintenance activities in accordance with the maintenance agreement plan shall be permitted without the necessity of securing new permits. Written notice of the intent to proceed with non-routine maintenance shall be provided by the party responsible for maintenance to the department of public works at least 14 days in advance of commencing work. The property owner shall give the city a certification annually that the required maintenance has been completed.

(2) The maintenance agreement shall be binding on all subsequent owners of land served by the stormwater BMPs and shall be recorded in the office of the county register of deeds prior to the effectiveness of the approval of the city manager.

(3) If it has been found by the city manager, following notice and an opportunity to be heard by the property owner, that there has been a material failure or refusal to undertake maintenance as required under this chapter and/or as required in the approved maintenance agreement as required hereunder, the public works director shall then be authorized, but not required, to hire an entity with qualifications and experience in the subject matter to undertake the monitoring and maintenance as so required, in which event the property owner shall be obligated to advance or reimburse payment (as determined by the city) for all costs and expenses associated with such monitoring and maintenance, together with a reasonable administrative fees. The maintenance agreement required under this chapter shall contain a provision spelling out this requirement and, if the applicant objects in any respect to such provision or the underlying rights and obligations, such objection shall be resolved prior to the commencement of construction of the proposed development on the property

26. Section 58-3 of Chapter 58 shall be amended to read as follows:

**Sec. 58-3. Signs not regulated by this chapter.**

The following signs are not regulated by the provisions of this chapter:

(1) Memorial signs or tablets, name of a building and date of erection when cut into any

masonry surface or when constructed of bronze or other incombustible material.

(2) Signs of governmental agencies and public utilities required in rendering essential services.

(3) The flag, emblem, pennant or insignia of any nation, state, city or other governmental unit; or of any political, educational, charitable, philanthropic, civic, professional, religious or like organization when displayed in connection with a campaign, drive, movement or event sponsored by such an organization subject to prior notice to the city manager and subject to such reasonable time, place and manner restrictions as the city manager may deem necessary to protect the public safety or welfare.

(4) Parades, holiday sales by civic groups, merchant sidewalk sales and similar temporary events utilizing signs when authorized by the city council or laws of this state.

(5) No hunting, no trespassing signs and on-premise directional signs not exceeding four square feet in area.

(6) Any identification, address, or for sale sign affixed to a wall, mailbox, post, lamp post, or pillar; and which is not larger than two square feet in sign area; and not for the purpose of advertising a home occupation.

(7) Any sign communicating that a business is open, provided the sign area does not exceed four square feet and contains no advertising matter. Said sign shall not count against a businesses window or other sign area calculation.

(8) Municipal signs required by law, traffic control signs, directional signs placed in a right-of-way, legal notices, railroad crossing signs, danger and other temporary emergency signs.

(9) Parking or directional signs not over two square feet in area not exceeding two per driveway provided the sign contains no advertising matter. Drive-in businesses may in addition utilize individual signs, not exceeding three in number, but which shall not together aggregate more than 12 square feet, and which are necessary in such businesses.

(10) Way finding signs for ancillary uses or divisions of an existing use including automobile repair shops, docking stations, service doors, instructional boards, or overhead dimensional limits. Each sign shall not exceed six square feet in area and shall be subject to administrative review and approval. Said signs shall contain no advertising matter.

(11) Historical markers issued and approved by the Michigan Historical Marker Program of the State Historic Preservation Office describing designation of an historic site or structure that does not exceed 18 square feet.

(12) Signs on public property or in public parks in conjunction with sporting events, holidays, etc., when said public property has administrative rules regulating such signage.

27. Section 62-34 of Chapter 62 shall be amended to read as follows:

**Sec. 62-34. Collection supervised by director of public works.**

(a) *Authority.* All refuse accumulated in the city from a dwelling unit shall be carted, conveyed and disposed of by a licensed contractor under contract with the city and under the supervision of the director of public works. The director shall have the authority to make regulations concerning the days of collection, type and location of waste containers, and such other matters pertaining to the collection, conveyance and disposal as he shall find necessary, and to change and modify the regulations, after public notice in a legal newspaper, provided that such regulations are not contrary to the provisions of this article.

(b) *Appeals.* Any person aggrieved by regulation of the director shall have the right to appeal to the city manager, who shall have the authority to confirm, modify or revoke any such rule or

regulation.

28. Section 66-19 of Chapter 66 shall be amended to read as follows:

**Sec. 66-19. Hardship deferments.**

The city manager may grant a deferment of the annual installment payments due on special assessments for street and sidewalk improvements on homestead properties in case of hardship, subject to the following:

(1) The payment of special assessment installments may be deferred for owners who meet the terms and conditions of this section annually for a period not to exceed ten years or until the property is sold or until one year after the owner's death, however, the death of a spouse shall not terminate deferral of an assessment on homestead property owned by a husband and wife. The gross amount of the annual special assessment installment eligible for deferment under this section shall not be less than \$300.00.

(2) To receive deferment, the owner shall annually certify to the city manager on or before July 1st that his annual household income does not exceed HUD Section 8 income limits.

(3) The owner shall execute and deliver to the city clerk a lien in recordable form in favor of the City indicating the amount of the annual special assessment deferred, plus interest as provided in subsection (4), and identifying the homestead.

(4) The payment of special assessment installments deferred under this section which are subsequently made by the owner or owner's estate shall include interest computed at the rate of one-half of one percent (0.005) per month or fraction of a month.

(5) The city treasurer shall not report as delinquent any special assessment installment which is deferred under this section for which a lien has been recorded in favor of the city, until such time as the term of the deferment expires as provided in subsection 66-19(1) above.

(6) A hardship deferment shall not be granted by the city manager where the owner of homestead property is eligible for a deferment of special assessments on that homestead pursuant to 1976 PA 225, MCL 211.761 et seq.

29. Section 70-101 of Chapter 70 shall be amended to read as follows:

**Sec. 70-101. Required.**

(a) *Obtaining permit.* No person shall engage in, participate in, aid, form or start any parade unless a parade permit shall have been obtained from the city manager.

(b) *Exceptions.* This section shall not apply to:

(1) Funeral processions.

(2) Students going to and from school classes or participating in educational activities if such conduct is under the immediate direction and supervision of the proper school authorities.

(3) A governmental agency acting within the scope of its functions.

30. Section 70-102 of Chapter 70 shall be amended to read as follows:

**Sec. 70-102. Application.**

(a) *Filing.* A person seeking issuance of a parade permit shall file an application with the city manager on forms provided by such officer.

(b) *Filing period.* An application for a parade permit shall be filed with the city manager not less

than 20 days, nor more than 60 days before the date on which it is proposed to conduct the parade.

(c) *Contents.* The application for a parade permit shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct such parade.
  - (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.
  - (3) The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct.
  - (4) The date when the parade is to be conducted.
  - (5) The route to be traveled, the starting point and the termination point.
  - (6) The approximate number of persons who and animals and vehicles which will constitute such parade; the type of animals and description of the vehicles.
  - (7) The hours when such parade will start and terminate.
  - (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.
  - (9) The location by streets of any assembly areas for such parade.
  - (10) The time at which units of the parade will begin to assemble at any such assembly area.
  - (11) The interval of space to be maintained between units of such parade.
  - (12) If the parade is designed to be held by and on behalf of or for any person other than the applicant, a communication which the applicant for such permit shall file with the city manager in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.
  - (13) Any additional information which the city manager shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (d) *Late applications.* The city manager, where good cause is shown, shall have the authority to consider any application under this section which is filed less than five days before the date such parade is proposed to be conducted.
- (e) *Fee.* There shall be paid at the time of filing the application for a parade permit a fee in the amount established by resolution.

31. Section 70-103 of Chapter 70 shall be amended to read as follows:

**Sec. 70-103. Standards for issuance.**

- (a) The city manager shall issue a permit as provided for under this division when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:
- (1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
  - (2) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and contiguous areas as to prevent normal police protection to the city.
  - (3) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and contiguous areas.
  - (4) The concentration of persons, animals and vehicles at assembly points of the parade will

not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas.

(5) The conduct of such parade will not interfere with the movement of firefighting equipment en route to a fire.

(6) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct, or to create a disturbance.

(7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

(8) The parade is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.

(b) Where in the sound discretion of the city manager it is deemed necessary by reason of the nature of the parade and the number of persons, vehicles or animals involved, there is a reasonable likelihood of damage to a person or property, accumulations of waste or debris on the streets and unusual demands on police, fire or other city services, the city manager shall estimate the cost to the city by virtue of such parade activities; and the applicant shall post a security deposit for payment to the city of actual costs of cleaning the streets, providing necessary police, fire and other protective services and such estimated costs as may arise from parade activities. Any sum not expended shall be returned to the applicant. In addition, the applicant shall file with the city a policy of liability and property damage insurance indemnifying the city against any liability to persons or property, including property owned by the city, arising out of the parade.

32. Section 70-104 of Chapter 70 shall be amended to read as follows:

**Sec. 70-104. Notice of rejection.**

The city manager shall act upon the application for a parade permit within ten days after its filing. If the city manager disapproves the application, he shall mail to the applicant within five days after the date upon which the application was filed a notice of his action, stating the reasons for his denial of the permit.

33. Section 70-106 of Chapter 70 shall be amended to read as follows:

**Sec. 70-106. Alternative permit.**

The city manager, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the city manager, file a written notice of acceptance with the city manager. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under this article.

34. Section 70-107 of Chapter 70 shall be amended to read as follows:

**Sec. 70-107. Notice to city and other officials.**

Immediately upon the application of a parade permit, the city manager shall notify the mayor, the fire chief, the postmaster and the general manager, or responsible head of each public transportation utility, the regular routes of whose vehicles will be affected by the route of the

proposed parade, when, in his judgment the foregoing parties may be affected by the proposed parade; and immediately upon the issuance of a parade permit, he shall notify all of the above-named parties which he deems will be affected by the proposed parade in their capacities and duties as city officers, or otherwise.

35. Section 70-108 of Chapter 70 shall be amended to read as follows:

**Sec. 70-108. Contents of permit.**

Each parade permit shall state the following information:

- (1) Starting time.
- (2) Minimum speed.
- (3) Maximum speed.
- (4) Maximum interval of space to be maintained between the units of the parade.
- (5) The portions of the streets to be traversed that may be occupied by the parade.
- (6) The maximum length of the parade in miles or fractions of miles.
- (7) Such other information as the city manager shall find necessary to the enforcement of this article.

36. Section 70-110 of Chapter 70 shall be amended to read as follows:

**Sec. 70-110. Revocation.**

The city manager shall have the authority to revoke a parade permit issued under this division upon application of the standards for issuance as set forth in this division.

37. Section 74-78 of Chapter 74 shall be amended to read as follows:

**Sec. 74-78. Preliminary plat review by planning commission.**

(a) The proposed preliminary plat shall be placed on the agenda of the next regular planning commission meeting which follows the submittal, by no less than 20 days. Should any required data be omitted, the proprietor shall be notified in writing of the specific data required; and the planning commission shall delay further action until the data are received.

(b) The planning commission shall not take action on a proposed plat without affording an opportunity for a public hearing thereon. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. It shall be the duty of the planning commission via the city clerk's office, to send notice by first class mail to the proprietor and to property owners immediately adjacent to the property to be platted, of presentment of the preliminary plat and the date, time and place of the meeting of the planning commission to consider the preliminary plat. The notice shall be sent not less than 15 days before the public hearing date and shall be published in a newspaper of general circulation in the city.

(c) The planning commission shall recommend approval, conditional approval, or rejection of the preliminary plat. The planning commission shall review the preliminary plat in the following manner:

- (1) All details of the proposed preliminary plat shall be reviewed with reference to the requirements of the zoning ordinance, the various elements of the plan, and the design standards set forth in this article. The planning commission may, at its discretion, transmit copies of the

preliminary plat to the city engineer and the city manager for their review. The planning commission shall transmit copies of the preliminary plat to all city departments concerned with the development, and may transmit a copy to the school board for review and recommendation.

(2) The planning commission shall act on the preliminary plat in sufficient time to permit the city council to act within the time limit required by section 112 of the Land Division Act (MCL 560.112).

a. Should the recommendation be a conditional approval and, therefore, tentative, and if the proprietor shall in writing have waived the time requirement set forth by this article, the preliminary plat shall not be forwarded to the city council until the conditions have been satisfied by the proprietor. The revised preliminary plat shall be marked as a revision and shall follow the filing procedure set forth in this article.

b. Should the planning commission recommend rejection of the preliminary plat, it shall record the reasons in the minutes of that meeting. A copy of the minutes and all copies of the preliminary plat shall be forwarded to the city council.

c. Should the planning commission find that all standards under the Land Division Act, 1967 PA 288, the design standards of this article, the requirements of the zoning ordinance, and the applicable elements of the master plan are met and all conditions have been satisfied, it shall recommend approval of the preliminary plat. The chairman or secretary of the planning commission shall make a notation to that effect on each copy of the preliminary plat, returning one copy to the proprietor, forwarding four copies to the city council via the city clerk's office, and retaining one copy for its files.

(3) The planning commission shall recommend approval, approval with conditions, or disapproval of a plat within 63 days after the plat is submitted to the planning commission. If the planning commission fails to act within the required period, the plat shall be considered to have been recommended for approval and a certificate to that effect shall be issued by the planning commission upon request of the proprietor. However, the proprietor may waive this requirement and consent to an extension of the 63-day period.

38. Section 74-163 of Chapter 74 shall be amended to read as follows:

**Sec. 74-163. Guarantee of completion of required improvements.**

(a) The developer shall be responsible for the provision of all required improvements to the subdivision.

(b) The final plat should not be submitted until all of the required improvements within the plat have been completed according to plans and specifications as set forth in this division, or until satisfactory arrangements have been made to complete them. This may be accomplished by either the full installation of all required improvements by the developer at the time the final plat is forwarded to the city council with a recommendation of approval by the planning commission, or by the provision of a financial guarantee of performance in the following manner:

(1) *Performance guarantee.*

a. Any requests made of the city council to accept a performance guarantee deposit in lieu of completing all required improvements prior to having the city council approve the final plat shall be confirmed in writing and shall be accompanied by an estimate of costs of the remaining required improvements. This estimate shall be furnished by the proprietor's engineer. It shall be complete in all respects, including estimated quantities and unit prices, and bear the engineer's seal of registration. If approved by the city council, this estimate will provide the basis for the

amount of performance deposit and written agreement. Generally, the amount of performance guarantee required will be equal to 100 percent of the proprietor's engineer's estimate, following review by the city engineer's estimate and agreement, plus 25 percent of such estimate for contingencies. The agreement may further stipulate that the deposit shall be rebated to the proprietor, or an appropriate reduction in the security, in the amounts equal to the cost of completed units of work stipulated in the agreement prepared pursuant to this section, and satisfactory accomplishment of the construction milestones.

b. The performance guarantee shall either be a cash deposit or a certified check, or an irrevocable letter of credit, deposited by the subdivider with the city treasurer or a responsible escrow agent or trust company, subject to the approval of the city council and the city attorney.

c. The agreement will be so written that any part of the performance deposit, as required, may be used to reimburse the city for costs incurred in connection with the examination and inspection of the required improvements.

d. If the developer shall in any case fail to complete such work within such period, as required by the conditions of the guarantee, the city shall have such work completed. In order to reimburse itself for the cost expense, the city council may appropriate funds from the deposit which the subdivider deposits in lieu of the required improvements.

(2) *Maintenance bond.* Prior to acceptance by the city of required improvements, a one-year maintenance bond in an amount set by the city council shall be posted by the subdivider.

(3) *Inspections.*

a. Inspectors authorized by the city council shall be required to review construction of all required improvements on a continuous basis. In no case shall the same engineer provide services to both the city and the subdivider.

b. It shall be the responsibility of the improvements contractors to notify the office of the city manager at least three days in advance for the following periodic inspections:

1. Storm and sanitary sewers, water lines, mains, laterals, and catch basins before the trenches are backfilled.

2. Forms set for curb and gutter subbase has been put in place and before the concrete is poured.

3. Forms set for sidewalks before any concrete is poured.

4. All subgrade that has been shaped and rolled, before compaction test is made.

5. Forms for pavement before any concrete is poured.

6. All base courses.

c. No work covered by the bond shall be accepted or bond released until these inspections have been made and work found satisfactory.

d. The agreement to install required public improvements shall also provide for the checking of improvements and plans and continuous inspections of all improvements by the city and for costs of such services which shall be borne by the subdivider.

(4) *Sidewalks and street trees.* For required improvements consisting of sidewalk and street trees, the proprietor may elect to provide a performance guarantee deposit in an amount equal to 15 percent of the engineers' estimates of such cost, plus 25 percent of such deposit for contingencies, provided the proprietor shall:

a. Submit for approval with the final plat building and use restrictions in recordable form, approved by the city attorney, requiring that each owner construct sidewalks to city specifications along all street rights-of-way abutting the lot or parcel and to plant according to city specifications required street trees within the right-of-way before occupying any residence

on any lot. These building and use restrictions shall be recorded with the register of deeds with the final plat.

b. Provide to each purchaser of any undeveloped lot or parcel within the subdivision prior to closing written notice that the owner shall bear the legal and financial responsibility of constructing public sidewalks and installing required street trees within the public right-of-way according to city specifications as a prior condition to lawful occupancy of any dwelling to be constructed. This duty shall be binding on the proprietor and his heirs, personal representatives, successors or assigns; and no such person shall fail to provide such notice.

c. Agree that should any required sidewalks or street trees within the subdivision not be constructed or installed by subsequent purchasers within six years following final plat approval, that the city may proceed to complete the improvements; and the city council may appropriate the costs from the performance guarantee deposit as provided in subsection (b)(1) of this section.

39. Section 74-201 of Chapter 74 shall be amended to read as follows:

**Sec. 74-201. Standards for approval of land divisions.**

A proposed land division shall be approved if the following criteria are met:

(1) All the parcels to be created by the proposed land division fully comply with the applicable lot (parcel), yard and area requirements of the zoning ordinance, including but not limited to the provisions of section 94-121 of this Code for minimum lot (parcel) width, minimum road frontage, minimum lot (parcel) area, minimum lot depth-to-width ratio, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.

(2) The proposed land division complies with all requirements of the Land Division Act (MCL 560.101 et seq.) and this article.

(3) All parcels created and remaining have existing adequate accessibility, or an available access to a public road for public utilities and emergency and other vehicles not less than the requirements of the zoning ordinance, major thoroughfare plan, or this article. In determining adequacy of accessibility, the standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four or more parcels.

(4) Parcel depth and width requirements.

a. The ratio of depth to width of any parcel created by the division shall comply with the requirements of section 74-133(a)(2) exclusive of access roads, easements or nonbuildable parcels created under section 74-202, and parcels added to contiguous parcels that result in all involved parcels complying with that ratio.

b. The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

c. The permissible minimum width shall be as defined in article II of this chapter for each resulting parcel of ten acres or less.

(5) In the case of any proposed land division resulting in four or more residential developmental parcels, each parcel shall have frontage on or shall abut a public street or highway or a private road constructed in accordance with a final site plan approved pursuant to chapter 94 of this Code.

(6) In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

a. Where accessibility is to be provided by a proposed new dedicated public road, proof that

the city engineer, county road commission, or state department of transportation has approved the proposed layout and construction design of the road and of utility easements and connected drainage facilities.

b. Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, or private road approved by the planning commission pursuant to a community unit plan, such accessibility shall comply with the following:

1. Design standards for minor streets prescribed in Division 3 of Article II of this chapter.

2. Required improvements for minor streets prescribed in Division 4 of Article II of this chapter.

3. If accessibility is by a private road or easement, a document acceptable to the city manager shall be recorded with the county register of deeds and filed with the city assessor or his designee specifying the method of private financing of all maintenance, improvements and snow removal, the apportionment of these costs among those benefited, and the right of the city to assess such costs against those properties benefited, plus a 25 percent administrative fee, and to perform such improvements in the event of a failure of those benefited to privately perform these duties for the health, safety and general welfare of the area.

4. No private road or easement shall extend for more than 1,000 feet from a public road.

5. No private road shall serve more than 25 separate parcels.

(7) In the case of each resulting parcel that is a development site, satisfactory evidence of adequate easements for public utilities from the parcel to existing public utilities.

40. Section 75-21 of Chapter 75 shall be amended to read as follows:

**75-21. Telecommunication permit required.**

(a) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the city for its telecommunications facilities shall apply for and obtain a permit pursuant to this chapter.

(b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the city clerk, one copy with the city manager, one copy with the city attorney. Upon receipt, the city clerk shall distribute a copy to the director of public works, the zoning and development director, and the chair of the mason cable commission. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, Public Act No. 442, 1976 (MCL 15.231 to 15.246), pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(d) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.

(e) *Additional information.* The city manager may request an applicant to submit such additional information which the city manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the city manager. If the city and the applicant cannot agree

on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.

(f) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the city under Section 251 of the Michigan Telecommunications Act, Public Act No. 179, 1991 (MCL 484.2251), and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.

(g) *Existing providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the city as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, Public Act No. 179, 1991 (MCL 484.2251), 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, as provided in Section 5(4) of the Act.

41. Section 75-22 of Chapter 75 shall be amended to read as follows:

**75-22. Issuance of permit.**

(a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the city manager. Pursuant to Section 15(3) of the Act, the city manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under section 4(b) of this chapter for access to a public right-of-way within the city. Pursuant to Section 6(6) of the Act, the city manager shall notify the MPSC when the city manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The city manager shall not unreasonably deny an application for a permit.

(b) *Form of permit.* If an application for permit is approved, the city manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.

(c) *Conditions.* Pursuant to Section 15(4) of the Act, the city manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond requirement.* Pursuant to Section 15(3) of the Act, and without limitation on 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.

(e) *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 chapter 70 of this Code, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(f) *Conduit or utility poles.* Pursuant to Section 4(3) of the Act, obtaining a permit or paying the

fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

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

42. Section 75-24 of Chapter 75 shall be amended to read as follows:

**Sec. 75-24. Annual maintenance fee.**

(a) *Establishment and payment of fee.* In addition to the non-refundable application fee paid to the city set forth in subsection 75-21(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.

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

(c) *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 subsection (b) of this section shall be void from the date the modification was made.

(d) *Use of funds.* Pursuant to Section 10(4) of the Act, all amounts received by the city from the Authority shall be used by the city solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the city from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the city under Public Act No. 51, 1951.

(e) *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.

43. Section 75-52 of Chapter 75 shall be amended to read as follows:

**Sec. 75-52. Reservation of police powers; enforcement.**

(a) *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.

(b) *Municipal civil infraction.* A person who violates any provision of this chapter or the terms or conditions of a permit issued by the city is responsible for a municipal civil infraction, and shall be subject to the penalty provided by section 1.8(e) of the city Code. Nothing in this section shall be construed to limit the remedies available to the city in the event of a violation by a person of this chapter or a permit.

(c) *Enforcement.* The city manager is hereby designated as the authorized city official to issue municipal civil infraction citations or municipal civil infraction violation notices for violations under this chapter as provided by the city Code.

44. Section 82-5 of Chapter 82 shall be amended to read as follows:

**Sec. 82-5. Supervisor.**

The operation, repair and management of the system shall be under the supervision and control of the city manager. The council shall pass all ordinances and make such rules and regulations as may be needed so as to provide for the safe, economical and efficient management of the system.

45. Section 82-6 of Chapter 82 shall be amended to read as follows:

**Sec. 82-6. Operating year.**

The system shall be operated on the basis of an operating year commencing on July 1 and ending on June 30.

46. Section 82-7 of Chapter 82 shall be amended to read as follows:

**Sec. 82-7. Permitted connections.**

(a) All connections to the system shall only be by permit.

(b) All permits issued for connections to the system shall be issued only upon application of the owner or his duly authorized agent, setting forth the size and type of pipe to be used, the location and size of the public water or public sanitary sewer, the precise location of the tap-in connections as related to the building, and such other information as set forth on the application form provided by the city.

(c) No connections shall be made to the system that do not include both water and sewer, unless by consent of the city manager and then upon payment of the connection charges that are established pursuant to Article IV, Section 82-243.

(d) All permits for connections shall be conditional and subject to final inspection before backfilling by the building inspector or his duly authorized agent. Upon final inspection, the building inspector shall issue the owner or his agent a certificate of inspection. Any connection made without this certificate shall void the permit, and the tap-in shall be disconnected, unless properly made and unless the cost of re-excavation and inspection are forthwith paid to the city.

(e) Water main connections shall be made only by the city, subject to its sole discretion as to location, work and material. The charge shall be the actual cost of the material, including meter cost, labor, supervision and administration costs of ten percent. The Authority shall estimate the cost of such installation, and this amount shall be deposited with the city at the time the permit

is issued. Any overage shall be refunded, and any cost above the estimate shall be billed and paid by the property owner forthwith. The final connection from the installation made by the city from or near the curb to the building shall be performed by the owner at his own expense and subject to city specifications; however, no installation shall be completed until final inspection and approval by the city.

(f) No person other than an authorized representative of the city shall make any connection to any water main of the city, including fire hydrants. No person shall take or use city water from any water main of the city, including fire hydrants, without a permit or authorization from the Authority. A violation of this subsection shall constitute a misdemeanor.

47. Section 82-32 of Chapter 82 shall be amended to read as follows:

**Sec. 82-32. Conservation rules.**

(a) When weather or other extraordinary conditions place unusual demand upon the public water distribution system or when the public water supply or capacity is restricted due to mechanical failure or other physical limitations and low pressure or reduced volumes threaten the public health, safety or welfare, the city manager is empowered to make and publish rules necessary to conserve and protect the public health, safety and welfare and the integrity of the public water supply system. Such rules may restrict or prohibit irrigation of lawns, other outdoor irrigation and other nonessential uses of the public water supply.

(b) Rules promulgated by the city manager under this section shall become effective upon filing with the city clerk and publication in a newspaper of general circulation in the city and shall remain in effect until modified or rescinded by further order of the city manager or by resolution of the city council.

(c) The city manager may grant exceptions to this section in cases where outdoor irrigation is necessary to preserve nursery stock or newly established landscaping which is required by city codes or the Soil Erosion and Sedimentation Control Act, Pt. 91 of the Natural Resources and Environmental Protection Act (MCL 324.9101 et seq.).

48. Section 82-35 of Chapter 82 shall be amended to read as follows:

**Sec. 82-35. Turning off water for repairs; fee for resumption of service; tampering with meter; additional meter.**

(a) Where water is shut off in any section of the city by reason of accident or necessity of repair, the water department shall endeavor to give timely notice to the consumers affected, and shall, so far as practicable, use its best efforts to prevent and minimize inconvenience and damage arising from such shutoff; but the failure to give such notice shall not render the city responsible or liable in damages for any inconvenience, injury or loss which may result from such shutoff.

(b) If, for any reason, except on the initial installation and connection, water service is resumed or turned on for a user, the user shall first pay the required turn-on charge.

(c) No person shall tamper with, disconnect, bypass, replace, alter or interfere with any city meter, or engage in any act to obtain free service or reduced water service rates without the express consent of the city manager. A violation of this section is a misdemeanor.

(d) Where premises are connected to at least one meter which measures the flow of water, the waste of which is directly or indirectly discharged to the city's publicly owned treatment works, the owner may install a second meter connection so as to measure only water drawn from

outside faucets which does not flow as waste to the city's publicly owned treatment works. This meter shall be purchased at cost from the city, or a source approved by the city, installed under city permit, inspected, and maintained in good working order, all at the owner's sole expense.

49. Section 82-64 of Chapter 82 shall be amended to read as follows:

**Sec. 82-64. Conflicts of interest.**

(a) The cross connection control inspector shall refrain from any transaction which may directly or indirectly result in the following:

(1) The hiring for employment of the cross connection control inspector by an owner, occupant or lessee of premises subject to this division, for the purpose of making repairs or alterations, as required by the provisions of this division.

(2) The referral by the cross connection control inspector of any person for employment by an owner, occupant or lessee of premises subject to this division for the purpose of making repairs or alterations, as required by the provisions of this division.

(3) The gaining of a financial interest by the cross connection control inspector in any transaction involving an owner, occupant or lessee of premises subject to this division; such financial interest including, but not limited to, any known financial interest direct or indirect, gained by the cross connection control inspector's spouse, parent, grandparent, child, grandchild, brother or sister or spouse of any of them.

(b) Violation of any of the provisions of this section shall render the business relationship between the cross connection control inspector and the city voidable at the option of the city manager.

50. Section 82-71 of Chapter 82 shall be amended to read as follows:

**Sec. 82-71. Administrative hearing, review panel.**

(a) A person who is issued a notice of violation under this division, may within ten days from the date of receipt of such notice, petition for an administrative hearing at which the person may indicate why it is believed that there is no violation of this division. The request for the administrative hearing shall not act as a stay of actions taken by the Authority.

(b) The privilege to request an administrative hearing shall also exist where discontinuance of the water supply has previously been made due to a declared imminent hazard.

(c) There is hereby created an administrative review panel composed of the city manager, a member of the Utility Rate Study Commission designated by the commission, and the zoning and development director.

(d) Upon receipt of a written petition for an administrative hearing, the administrative review panel shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why the notice of violation should be modified or withdrawn. The hearing shall commence not later than ten days after the day on which the petition was filed.

51. Section 82-101 of Chapter 82 shall be amended to read as follows:

**Sec. 82-101. Purpose and policy.**

(a) This article sets forth uniform requirements for direct and indirect contributors into the

POTW for the city and is intended to enable the city to comply with all applicable state and federal laws.

(b) The objectives of this article are to:

(1) Prevent the introduction of pollutants into the city sanitary sewer system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the city sanitary sewer system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewater and sludge from the system; and

(4) Provide for the equitable distribution of the costs of the city sanitary sewer system.

(c) This article provides for the regulation of direct and indirect contributors to the city sanitary sewer system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for other users, authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article.

(d) 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, the Authority shall, acting under the supervision of the city manager, administer, implement and enforce the provisions of this article.

52. Section 82-111 of Chapter 82 shall be amended to read as follows:

**Sec. 82-111. Filing of application.**

(a) Any person desiring to do business as a sewer builder in connection with the sanitary sewer system shall file in the city hall an application giving the name of the person and place of business asking to be licensed by the city as a sewer builder, and stating that the applicant is qualified by experience to engage in the work and willing to be governed in all respects by the rules and regulations which are or may be adopted by the city. Each applicant for a license shall pay an annual fee in the amount established by resolution of city council and execute and deposit to the city, with his application, a bond with sufficient surety or sureties to be approved by the city, in the sum of \$10,000, conditioned that he will indemnify and save harmless the city from all accidents and damages caused by any negligence in protecting his work or by any unfaithful, imperfect, inadequate, careless or unskilled work done by him or his employees, and that he will also promptly and in a proper time replace and restore sidewalk, pavement or other street surfaces over any opening he may have made to as good a state as existed previous to their opening, and to keep and maintain the surface in good order to the satisfaction of the city for the period of one year next thereafter, and that he will pay all fines imposed upon him for a violation of any of the rules and regulations prescribed by this article and anyone injured or damaged may bring action on such bond for the recovery of damages. On receiving his license, he shall have recorded in the city clerk's office his actual place of business and the name under which the business is transacted and shall immediately notify the clerk of any change in either thereafter. No license shall be granted for more than one year, and all licenses shall be granted to expire on January 1.

(b) Before a license is granted to any person to do business as a sewer builder, he shall file with the application a certificate of carriage of workers compensation insurance with statutory limits,

and public liability and property damage insurance in the minimum amount of \$1,000,000 combined single limits with a company authorized to do business in the state, with the City of Mason as an additional named insured. These minimum limits may be increased by the Authority as required based upon the scope of the work.

(c) The city council may, on its own initiative for good cause, suspend or revoke any license issued under the provisions of this article; and the findings of the city council in such matters shall be conclusive and final, and the reasons for such revocation or suspension shall be entered on the records of the council. The Authority may for good cause suspend any license granted under this article for a period of 24 hours and cause such license to be delivered to him, and he shall forthwith report in writing such action to the city manager; and upon approval of the city manager in writing, such license shall stand revoked and suspended until the next regular meeting of the city council. At such meeting of the city council, the holder of such license shall appear and be heard; and, if the council after hearing the facts shall deem it advisable, it may affirm the revocation or change the revocation to a suspension for an appropriate period.

53. Section 82-161 of Chapter 82 shall be amended to read as follows:

**Sec. 82-161. Construction and maintenance of pretreatment facilities.**

(a) Where pretreatment facilities are required by the city, plans, specifications and other pertinent information relating to proposed preliminary treatment, including a semiannual report of progress regarding compliance with pretreatment standards, shall be submitted for approval by the city manager; and no construction of such facility shall be commenced until such approvals are obtained in writing.

(b) Where pretreatment facilities are provided for any wastewater or waste, they shall be maintained in satisfactory and effective operation at all times by the owner at the owner's sole expense.

(c) The owner shall regularly submit a wastewater treatment report to the city as often as required by the permit. Such report shall include all measurements, tests and analyses of the characteristics of wastewater and waste as referred to in this section and any other pertinent information as may be required by the city.

(d) All measurements, tests and analyses of the characteristics of wastewater and wastes to which reference is made in this division shall be determined in accordance with standard methods for examination of water and wastewater and federal guidelines establishing the procedures for the analysis of pollutants, and shall be determined at the monitoring facility provided for in section 82-189 or upon suitable samples taken at such monitoring facility. If no special monitoring facility is available, sampling shall be at the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(e) Every industrial or commercial entity operating a pretreatment or control facility which discharges wastewater or liquid wastes into the public sewer (sanitary, combined, or storm) shall have the waste treatment or control facilities under the specific supervision and control of a person who has been certified by the state department of environmental quality as being properly qualified to operate the facilities under the requirements of law.

54. Section 82-262 of Chapter 82 shall be amended to read as follows:

**Sec. 82-262. User charges.**

The user charges for service furnished by the system shall be levied upon each lot or parcel of land, building or premises, having any sewer connection with such system, on the basis of the quantity of water used, the waste of which is directly or indirectly discharged to the city's POTW as measured by meters used, or in their absence with the approval of the city, by such equitable method as shall be determined by the city manager for the payment of charges for water used; except in cases where the character of the wastewater from a manufacturer or industrial plant, building or premises is such that unreasonable additional burden is placed upon the system, greater than that imposed by the normal domestic strength wastewater, additional charges shall be assessed over the regular rates. Rates for users obtaining all or part of their water supply from sources other than the city's water system shall be determined by gauging or metering the actual wastewater accepted by the city. Charges for users shall be computed on the basis of 1,000-gallon units per customer.

55. Section 82-271 of Chapter 82 shall be amended to read as follows:

**Sec. 82-271. Purpose and policy.**

(a) The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the City of Mason through the regulation of non-storm water discharges to the separate storm sewer system to the maximum extent practicable as required by federal and state law.

(b) This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(c) The objectives of this article are:

(1) To regulate the contribution of pollutants to the municipal separate storm sewer system by storm water discharges by any user.

(2) To prohibit illicit connections and illicit discharges to the municipal separate storm sewer system.

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

(d) This article shall apply to all water entering the separate storm sewer system generated on any developed and/or undeveloped lands unless explicitly exempted by Section 82-274.

(e) The City of Mason shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the city may be delegated in writing by the city manager to persons or entities acting in the beneficial interest of or in the employ of the city. Except as otherwise provided herein, the director of public works shall, acting under the supervision of the city manager, administer, implement and enforce the provisions of this article.

(f) The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

56. Section 86-34 of Chapter 86 shall be amended to read as follows:

**Sec. 86-34. Removal; notice; cost.**

The city manager, or the authorized designee(s) of the city manager, shall notify personally, or by posting on the premises, the owner, agent or occupant of any of the lands described in Sec.

86-33 (above) on which prohibited grasses, weeds, vegetation or brush is found. Such notice shall contain a description of the prohibited condition and a summary of the provisions of this article. If the owner, agent or occupant of such land has failed within three business days after such notice is delivered or posted to cut, destroy or remove the prohibited condition, the city manager or designee(s) may enter upon such land and destroy by cutting with or without mechanical equipment and/or otherwise remove the prohibited weeds, grasses, brush or other vegetation. Express power to so enter such lands and perform such duties is hereby conferred upon the city manager and his/her designee(s). All expenses incurred in such destruction and/or removal shall be billed to and paid by the owner, agent or occupant of such lands.

57. Section 90-59 of Chapter 90 shall be amended to read as follows:

**Sec. 90-59. Issuance.**

(a) If the city council finds that further taxicab service in the city is required by public convenience and necessity and that the applicant is fit, willing and able to perform such public transportation and to conform to the provisions of this article and the rules promulgated by the city manager, the police chief shall issue a certificate, stating the name and address of the applicant, the number of vehicles authorized under the certificate, and the date of issuance; otherwise, the application shall be denied.

(b) In making these findings, the city council shall take into consideration the number of taxicabs already in operation; whether existing transportation is adequate to meet the public need; the probable effect of increased service on local traffic conditions; and the character, experience and responsibility of the applicant.

58. Section 90-89 of Chapter 90 shall be amended to read as follows:

**Sec. 90-89. Police investigation of applicant; traffic and police record.**

The police department shall conduct an investigation of each applicant for a taxicab driver's license; and a report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the city manager.

59. Section 90-90 of Chapter 90 shall be amended to read as follows:

**Sec. 90-90. Consideration of application.**

The city manager shall, upon consideration of the application for a taxicab driver's license and the reports and certificate required to be attached, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the city council to offer evidence why his application should be reconsidered.

60. Section 94-62 of Chapter 94 shall be amended to read as follows:

**Sec. 94-62. Zoning district map.**

The boundaries of the respective districts are defined and established as depicted on the map entitled "Zoning Map of the City of Mason, Michigan," which is an integral part of this chapter, and which, with the explanatory matter thereon, shall be the official zoning map of the city and shall be published as part of this chapter and is hereby incorporated by reference.

(1) The official zoning map of the city and subsequent amendments to the map shall be dated, certified, and bear the signature of the city manager. The map shall be attested to by the city clerk, and shall bear the following words: "This is to certify that the above map is the Official Zoning Map of the City of Mason".

(2) If amendments are made in district boundaries or other matters depicted on the official zoning map, such changes shall not be considered final, and a building permit shall not be issued, until the appropriate amendments have been made on the official zoning map. Such amendments shall be made within ten working days after the effective date of the ordinance amendment. Each amendment shall be accompanied by a reference number on the map which shall refer to the official ordinance amendment adopted by the city council. One copy of the official zoning map shall be maintained and kept up-to-date in the office of the city clerk.

(3) In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the city council may, by ordinance, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions on the prior official zoning map, but no such corrections shall have the effect of amending the zoning ordinance or the prior official zoning map. The new official zoning map shall comply with subsection (1) of this section. Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts which remain, shall be preserved together with all available records pertaining to its adoption or amendment.

(4) If because of the scale, lack of details, or illegibility of the official zoning map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, the following shall govern:

a. Where boundaries follow streets or highways, the centerline of the street or highway shall be the boundary line or lines.

b. Where a zoning district is bounded by a stream, lake or other body of water, and in the event of change in the shoreline, the boundary of said district shall be the thread of a stream or the actual shoreline of a lake or other body of water.

c. A boundary indicated as approximately following a recorded lot line or the line bounding a tax parcel shall be construed as following such line.

d. A boundary indicated as following the municipal boundary line of the city shall be construed as following such line.

e. A boundary indicated as following a railroad line shall be construed as following the railroad right-of-way.

f. A distance not specifically indicated in the official zoning map shall be determined by the scale of the map to the nearest foot.

g. Should the above not fully explain a question of boundaries, the zoning board of appeals shall have the authority to make an interpretation based upon the aforementioned standards and after receiving a recommendation from the planning commission.

61. Section 94-362 of Chapter 94 shall be amended to read as follows:

**Sec. 94-362. Organization and procedure.**

(a) *Meetings.* Four members of the zoning board of appeals shall comprise a quorum for the purpose of conducting a meeting. Meetings shall be held at the call of the chairman or the zoning official in writing delivered to the addresses of each member of the board. All meetings shall be

open to the public. The city manager or a designee shall act as secretary of the board.

(b) *Records.* Minutes of all meetings shall be recorded and made available in accordance with the Michigan Open Meetings Act (MCL 15.261 et seq.) and shall contain the grounds of every determination made by the zoning board of appeals including all evidence and data considered, all findings of fact and conclusions drawn, the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the city clerk and shall be available to the public. The record of proceedings for the zoning board of appeals shall contain the following information when applicable:

- (1) The application for an appeal, variance, or interpretation.
- (2) Any reports, plans, surveys or photos.
- (3) Notice of public hearing delivered to affected parties and published in a newspaper.
- (4) Affidavit of publication of notice of public hearing.
- (5) Letter from the zoning official granting or denying the application or referring it to the zoning board of appeals and all other relevant records related to the case.
- (6) Record of testimony heard and evidence presented.
- (7) A copy of the zoning articles and sections in question.
- (8) Briefs, correspondence or other communications made to the zoning board of appeals.
- (9) Statement of facts found by the zoning board of appeals, of its own knowledge, regarding the request including any information gained from personal inspection.
- (10) Decision of the zoning board of appeals as specifically related to the findings of fact.
- (11) A copy of any other correspondence to the appellant regarding the request.

(c) *Counsel.* The city attorney shall provide legal counsel to the zoning board of appeals when requested. Special legal counsel may be retained for the zoning board of appeals for any purpose deemed necessary provided that such appointment or retainer shall be approved in advance by the city council.

(d) *Decisions.* The zoning board of appeals shall return a decision on a case within a reasonable time after the hearing on an application or appeal unless a reasonable extension of time is deemed necessary by a majority of the members present. Any decision of the zoning board of appeals shall not become final until the expiration of five days from the date of the decision unless the zoning board of appeals shall find the immediate effect of the decision is necessary for the preservation of property or personal rights and shall so certify on the record.

(e) *Deferment by applicant.* When considering an appeal pursuant to subsection 94-363(a), or a variance pursuant to subsection 94-363(b), the zoning board of appeals shall defer all proceedings upon the request of the applicant when less than six members of the zoning board of appeals are present for consideration of and voting on said appeal or variance. The right of deferment shall be considered waived by the applicant if deferment is not requested immediately upon the opening of the hearing on the matter. When deferment is requested as required, the zoning board of appeals shall, at that time, determine the date of a future regular or special meeting for the continuation of the hearing and consideration of the matter. Notice previously given for the original hearing date shall constitute notice of the future hearing date with no further notice required.

62. Section 94-394 of Chapter 94 shall be amended to read as follows:

**Sec. 94-394. Amendment procedures.**

(a) The planning commission shall adopt an application form to be completed and filed with the

city clerk by the person or persons petitioning for the change. An application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for amendment.

(b) The petitioner shall submit to the city clerk a complete application, not less than 45 days before any regular meeting of the planning commission.

(c) The zoning official shall review the application for completeness. Any application not properly filed or complete shall be returned to the applicant. Complete applications shall be transmitted to the planning commission.

(d) The zoning official shall notify the following agencies within five days of receipt of a proper application from a petitioner or introduction of an ordinance by the city council to amend this chapter, requesting their comments and recommendations:

(1) Each electric, gas and pipeline public utility company, each telecommunication service provider, and each railroad within the district or zone that registers the name and address of such entity with the city clerk for the purpose of receiving notice of public hearings.

(2) City manager and city department directors.

(3) City engineer

(4) Superintendent of Mason Public Schools.

(5) County drain commissioner.

(6) County health department.

(7) County road commission.

(8) The airport manager of each airport that registers its name and mailing address of such entity with the city clerk for the purpose of receiving notice of public hearings.

(9) Other governmental units and agencies deemed appropriate by the zoning official.

(e) The above mentioned review agencies may submit comments and recommendations on the proposed amendment within 35 days of receipt of notice. If no written correspondence is received by the zoning official within said 35 calendar days, the planning commission shall presume that the review agency has no objections to the proposed rezoning.

**Effective Date.** This ordinance shall become effective 20 days after adoption and upon publication.

The foregoing Ordinance was moved for adoption by Council Member \_\_\_\_\_ and supported by Council Member \_\_\_\_\_, with a vote thereon being: YES ( ) NO ( ), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the \_\_\_\_ day of \_\_\_\_\_, 2018.

Ordinance No. 222 declared adopted this \_\_\_\_ day of \_\_\_\_\_, 2018.

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Russell Whipple, Mayor

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Sarah J. Jarvis, City Clerk

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