

**The Code**

**Chapter 1**

**GENERAL PROVISIONS**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in text. Amendments noted where applicable.]**

**CHARTER REFERENCE**

**Authority of Commission to establish penalties for ordinance violations — See § 4.**

**Enforcement of ordinances — See §§ 16 through 29.**

**Publication of ordinances in book form — See § 15.**

**Authority to commence prosecution by warrant — See § 17.**

**Health Officer — See §§ 54 and 187.**





**GENERAL REFERENCES**

**Amusements — See Ch. 6.**

**Animals — See Ch. 7.**

**Peddling stale, unwholesome, etc., food — See § 25-6.**

**Sale of food by transient merchants — See § 25-36.**

**Solid waste — See Ch. 31.**

**Traffic citations and complaints — See § 36-27 et seq.**

**Water — See Ch. 38.**



**STATUTORY REFERENCE**

**Codification of ordinances — See MSA § 5.2084(2); MCLA § 117.5b. Penalties — See MCLA § 117.4i.**



**§ 1-1. How Code designated and cited.**

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Kalamazoo, Michigan," and may be so cited. Such Code may also be cited as the "Kalamazoo City Code."



**§ 1-2. Rules of construction.**

It is the legislative intent of the City Commission, in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City. In the construction of this Code and any amendment thereto, the following rules shall be observed, unless the context clearly indicates otherwise:

- A. Charter. The word "Charter" shall mean the Charter of the City of Kalamazoo, adopted February 4, 1918, and shall include any amendment to such Charter.
- B. City. The word "City" shall mean the City of Kalamazoo, Michigan.
- C. City Commission. The term "City Commission" or "Commission" shall mean the City Commission of the City of Kalamazoo.
- D. Code. The term "this Code" or "Code" shall mean the Code of Ordinances, City of Kalamazoo, Michigan, as designated in § 1-1.
- E. County. The term "the county" or "this county" shall mean the County of Kalamazoo in the State of Michigan.
- F. Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.
- G. Health Department; Health Officer. The term "Health Department" shall mean the Kalamazoo County Health Department, and the term "Health Officer" shall mean the Director of such county department.
- H. Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
- I. Officer. Whenever any officer is referred to by title only, such reference shall be construed as if followed by the words "of the City of Kalamazoo, Michigan." Whenever, by the provisions of this Code, any officer of the City is assigned any duty or empowered to perform any act or duty, reference to such officer shall mean and include such officer or his deputy or authorized subordinate.
- J. Or, and. "Or" may be read "and" and "and" may read "or" if the sense requires it.
- K. Person. The word "person" shall include any individual, copartnership, corporation, association, club, joint adventure, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- L. Public place. The term "public place" shall mean any place to or upon which the public resorts or travels, whether such place is owned or controlled by the City or any agency of the state or is a place to or upon which the public resorts or travels by custom or by invitation, express or implied. The term "public place" shall include any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.
- M. Sidewalk. The word "sidewalk" shall mean that portion of a street, between the curblines or lateral lines and the right-of-way lines, which is intended for the use of pedestrians.
- N. State. The term "the state" or "this state" shall be construed to mean the State of Michigan.
- O. Street, highway and alley. The word "street" or "highway" shall mean the entire width, subject to an easement for public right-of-way or owned in fee by the City, county or state, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public, as a matter of right, for purposes of public travel. The word "alley" shall mean any such way or place providing a secondary means of ingress and egress from a property.

§ 1-2

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

§ 1-2



§ 1-2

§ 1-3

**§ 1-3. Section catchlines and other headings.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.



**§ 1-4. Certain ordinances not affected by Code.**

- A. Nothing in this Code or the ordinance adopting this Code shall affect:
- (1) Any ordinance granting any franchise or special privilege or right;
  - (2) Any ordinance establishing sewer and other public improvement districts;
  - (3) Any ordinance providing for the construction of particular sewers, streets or sidewalks, or the improvement thereof, or for the construction and improvement of other public works;
  - (4) Any ordinance authorizing the borrowing of money or the issuance of bonds or other evidence of indebtedness;
  - (5) Ordinance No. 439, being the Zoning Ordinance set out in Appendix A of this Code, or any amendment thereto, or any ordinance zoning or rezoning specific property, or any other ordinance set out in said Appendix A;
  - (6) Ordinance No. 541, being the Land Subdivision Standards Ordinance set out in Appendix B of this Code, or any amendment thereto;
  - (7) Any ordinance, or part thereof, which is not of a general and permanent nature;
- B. And all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the City Clerk's office.



§ 1-4

§ 1-5

**§ 1-5. Code does not affect prior offenses, rights, etc.**

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.



§ 1-5

§ 1-6

**§ 1-6. Adoption of certain ordinances and regulations of County Health Department. [Amended 3-6-1961 by Ord. No. 588; 9-11-1961 by Ord. No. 606]**

- A. The purpose of this section is to consolidate certain health regulations of the City with the County Health Department, avoid needless duplication of official documents, and ratify and clarify the official standing of regulations of the County Health Department. Authority for this section is based upon the following sources, which shall not be deemed exclusive:
- (1) State health statutes, including Act 306, PA 1927 [MSA § 14.165(1); MCLA § 327.205a<sup>1</sup>].
  - (2) Sections 53, 54 and 187 of the Charter.
  - (3) Agreement between the City of Kalamazoo and the County of Kalamazoo creating the County Health Department, as authorized by the City Commission on December 14, 1959, effective January 1, 1960.
- B. The following rules, regulations or ordinances of the County Health Department are hereby approved and adopted and shall be deemed in full force and effect within the limits of the City in all respects as though they were formally adopted as ordinances of the City, and all standards, powers, duties, licenses, fees and penalties or other provisions thereof shall be deemed in full force and effect within the City:
- (1) Food. Ordinance adopted by the Kalamazoo County Health Committee January 6, 1961, and approved by the Kalamazoo Board of Supervisors January 17, 1961, as amended for machine vendors March 22, 1961.
  - (2) Meat. Ordinance adopted by the Kalamazoo County Health Committee November 13, 1959, and approved by the Kalamazoo County Board of Supervisors November 17, 1959.
  - (3) Marine toilets. Ordinance adopted by the Kalamazoo County Health Committee July 7, 1961, and approved by the Kalamazoo County Board of Supervisors July 18, 1961.
  - (4) Milk. Ordinance adopted by the Kalamazoo County Health Committee July 7, 1961, and approved by the Kalamazoo County Board of Supervisors July 18, 1961.
  - (5) Rabies control. Ordinance adopted by the Kalamazoo County Health Committee on August 8, 1961, and approved by the Kalamazoo County Board of Supervisors August 15, 1961.
  - (6) Rebound tumbling centers. Ordinance adopted by the Kalamazoo County Health Committee January 6, 1961, and approved by the Kalamazoo County Board of Supervisors January 17, 1961.
  - (7) Refuse and garbage. Ordinance adopted by the Kalamazoo County Health Committee July 7, 1961, and approved by the Kalamazoo County Board of Supervisors July 18, 1961.
  - (8) Sewage disposal. Ordinance adopted by the Kalamazoo County Health Committee March 25, 1960, and approved by the Kalamazoo County Board of Supervisors May 17, 1960.
  - (9) Water supply. Ordinance adopted by the Kalamazoo County Health Committee March 25, 1960, and approved by the Kalamazoo County Board of Supervisors May 17, 1960.
- C. All amendments to the rules, regulations or ordinances mentioned in Subsection B above duly promulgated and adopted, either heretofore or hereafter, upon the effective dates thereof, shall be deemed in full force and effect within the limits of the City, without further official action by the City Commission.
- D. Pursuant to § 187 of the Charter, the power of the City to adopt ordinances relating to health, as set forth in said Charter, is expressly reserved to the City, and this section may be revised, amended or repealed as and when the City Commission may deem it in the best interests of the City to do so.

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1. Editor's Note: MCLA § 327.201 et seq. was repealed by PA 1978, No. 368. See now the Public Health Code, MCLA § 333.1101 et seq.  
1:19





§ 1-6

§ 1-7

**§ 1-7. General penalty for violations of Code and rules and regulations adopted under Code; continuing violations.<sup>2</sup> [Amended 7-7-2003 by Ord. No. 1757; 8-17-2015 by Ord. No. 1934]**

- A. Notwithstanding those ordinance violations which are designated as municipal civil infractions pursuant to MCLA § 600.113, as amended, for which the procedures are administered pursuant to MCLA § 600.8701 et seq., as amended, and traffic civil infraction violations pursuant to Chapter 36 of this Code, whenever in this Code or in any rule or regulation adopted under this Code an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such Code or rule or regulation the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or rule or regulation shall be punishable by a fine of not more than \$500 and costs of prosecution, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. In the event that a violation of this Code substantially corresponds to a violation of state law punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both, then this Code may provide for the imposition of that punishment, as provided by state law. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.
- B. The general misdemeanor penalties provided by this section, unless another penalty is expressly provided, shall apply to any amendment of this Code, whether or not such penalty is reenacted in the amendatory ordinance.
- C. In addition to the penalties provided in this section, the City may enjoin or abate any violation of this Code or any rule or regulation adopted under this Code by appropriate action and may avail itself of any other remedy provided by law to enforce this Code or such rule or regulation.

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2. Editor's Note: See also MCLA § 117.4i(k), regarding penalties.



**§ 1-7.1. Municipal civil infraction procedure. [Added 8-17-2015 by Ord. No. 1934]**

- A. As used in this Code, "municipal civil infraction" includes, but is not limited to, a railway municipal civil infraction. The procedures in a municipal civil infraction action shall be administered in accordance with MCLA § 600.8701 et seq. A person receiving a municipal civil infraction citation for a violation of a City ordinance shall respond to the citation within the time period specified on the citation by admitting responsibility for the municipal civil infraction, admitting responsibility for the municipal civil infraction "with explanation," or by requesting an informal hearing or a formal hearing. If a person admits responsibility for a municipal civil infraction "with explanation," the court may consider the person's explanation by way of mitigating any sanction which the court may order. A person charged with a municipal civil infraction is not entitled to a jury trial. The burden of proof at an informal hearing or a formal hearing on a municipal civil infraction shall be by a preponderance of the evidence. The plaintiff and defendant are entitled to appeal an adverse judgment entered at an informal hearing to a formal hearing before a judge of the 8th District Court.
- B. If the person to whom a municipal civil infraction citation is issued fails to appear as directed by the citation or fails to appear at a scheduled hearing, the court shall enter a default judgment against that person. If a defendant defaults in the payment of a civil fine, costs, or, if applicable, damages or expenses as ordered, the court may require the defendant to show cause why the default should not be treated as in civil contempt and may issue a summons or order to show cause or a bench warrant of arrest for the defendant's appearance, and the defendant may incur additional sanctions or penalties as provided in MCLA § 600.8727 through MCLA § 600.8729.
- C. Pursuant to MCLA § 600.8701(a), all Kalamazoo Department of Public Safety police officers, community service officers and public safety officers are authorized to issue and serve municipal civil infraction citations. The City Manager may designate other City employees as legally authorized to issue and serve municipal civil infraction citations, but only for the specific sections of the Code as designated by the City Manager.



**§ 1-8. Summons for violations in lieu of warrant. [Adm. Code, §§ A701 — A705]**

- A. When any person shall violate any provision of this Code or other City ordinance, as an alternative to filing an order allowing issuance of a warrant, the City Attorney may issue a written order for the issuance of a summons to be issued from the appropriate court, addressed to a defendant, directing the defendant to appear before a District Judge at a designated future time for proceedings as hereinafter set forth. Such summons shall issue from the appropriate court. It shall designate the name of the issuing court, the offense charged in the underlying complaint and the name of the defendant to whom it is addressed and it shall be subscribed by the issuing judicial officer.
- B. The summons provided for in this section shall be served by a police officer, district court process server, buildings-housing inspector or other persons authorized by the City Attorney.
- C. The defendant shall not be fingerprinted or photographed in connection with the process provided for in this section, unless it is ordered by the City Attorney.
- D. If the defendant does not appear in the designated court at the time the summons issued under this section is returnable, the court may issue a bench warrant for the arrest of the defendant or may issue a warrant therefor based upon the complaint filed.



§ 1-8

§ 1-8.1

**§ 1-8.1. Appearance tickets. [Amended 3-21-1977 by Ord. No. 1109; 5-19-1980 by Ord. No. 1202; 3-1-1982 by Ord. No. 1246; 10-25-1982 by Ord. No. 1271; 8-22-1983 by Ord. No. 1290; 6-15-1987 by Ord. No. 1416; 10-17-1988 by Ord. No. 1448]**

- A. Prosecution for violations of any of the following provisions of the Kalamazoo City Code may be commenced by the issuing of an appearance ticket: Chapters 4, 7, 8, 17, 18A, 18B, 21, 24, 25, and 37; Article III of Chapter 15; Article I of Chapter 23; Article V of Chapter 33; and §§ 3-1 and 3-2, 3-4 to 3-7, 15-3 to 15-5, 15A-2 and 15A-3, 19-11, 22-3, 22-6 to 22-15, 22-18 to 22-20, 22-22, 22-25 to 22-30, 22-37, 22-42, 22-42.1, 22-46, 22-50, 22-51, 22-53, 31-18, 31-19, 31-20, 31-21, 31-22, 33-11, 33-14, 33-16, 33-18 and 33-19.
- B. All Kalamazoo Department of Public Safety police officers, community service officers, and public safety officers are hereby designated as appearance ticket officers and authorized to issue and serve appearance tickets. The City Manager or the Chief of Public Safety also may designate other City employees as appearance ticket officers. Those City employees designated as appearance ticket officers by the City Manager or Chief of Public Safety are authorized to issue and serve appearance tickets only for the specific sections of the Code as designated by the City Manager or Chief of Public Safety.





**§ 1-9. Amendments to Code.**

- A. Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Kalamazoo, Michigan (or Kalamazoo Code), is hereby amended to read as follows: \_\_\_\_\_." The new provisions shall then be set out in full as desired.
- B. In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, City of Kalamazoo, Michigan (or Kalamazoo Code), is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: \_\_\_\_\_." The new section shall then be set out in full as desired.



**§ 1-10. Supplementation of Code.**

- A. By contract or by City personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the City Commission. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- B. In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- C. When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
- (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
  - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.



§ 1-10

§ 1-11

**§ 1-11. Responsibility of officers with respect to assigned copies of Code.**

Each City officer assigned a copy of this Code shall be responsible for maintaining the same and for the proper insertion of amendatory pages as received. Each such copy shall remain the property of the City and shall be turned over by the officer having custody thereof, upon expiration of his term of office, to his successor or to the City Clerk, in case he shall have no successor.



§ 1-11

§ 1-12

**§ 1-12. Severability.**

Should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent of the City Commission that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.





**Chapter 2**  
**ADMINISTRATION**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in article histories. Amendments noted where applicable.]**

**CHARTER REFERENCES**

**General authority of City Manager as to appointments — See § 11.**

**City Clerk — See § 47.**

**City Manager generally — See § 42.**

**Authority of Commission to appoint a Plan Board — See § 57.**

**Administrative departments designated — See § 44.**

**Civil service — See § 162.**

**Directors of departments — See § 45.**

**Duty of City Commission to provide and maintain, by ordinance, a retirement benefit system — See § 197.**

**City departments — See § 46.**



**GENERAL REFERENCES**

**Advertising** — See Ch. 3.

**Buildings and building regulations** — See Ch. 9.

**City bus system** — See Ch. 11.

**Civil defense office and personnel** — See § 12-2 et seq.

**Continuity in government in the event of attack** — See § 12-20 et seq.

**Elections** — See Ch. 13.

**Fire prevention and protection** — See Ch. 15

**Historical districts** — See Ch. 16.

**Historic District Commission** — See § 16-16 et seq.

**Housing Board of Appeals** — See § 17-27 et seq.

**Kalamazoo Mall** — See Ch. 19.

**Market Master** — See § 20-5.

**Harassing or interfering with City officers** — See § 22-20.

**Parks and recreation** — See Ch. 23.

**Parks and Recreation Advisory Board** — See § 23-29 et seq.

**Police** — See Ch. 26.

**Taxation** — See Ch. 35.

**Traffic Engineer** — See § 36-4.

**Traffic Board** — See § 36-6.

**Zoning Ordinance** — See App. A.

**Land Subdivision Standards Ordinance** — See App. B.



**STATUTORY REFERENCES**

**Planning Commission** — See MSA § 5.2992 et seq.; MCLA § 125.31 et seq.      **Historic districts and authority of City with reference thereto** — See MCLA § 399.201 et seq.





**ARTICLE I  
In General  
[Derived from Adm. Code §§ A101 — A102]**

**§ 2-1. City flag—Described.**

The City flag shall be blue, charged with an emblem as follows: The American eagle and 13 stars and the colors red, white and blue from the national emblem; upper left quarter of shield symbolizing religion; upper right quarter of shield, our principal agricultural product, celery; the lower left quarter of shield, industry; the lower right quarter of shield, education; superimposed on shield the letter "K"; surrounding the shield a large circle having the letters, Education, Industry and Progress; the entire emblem surrounded by a live oak wreath indicating growth, with ribbon scroll, with the letters of the City of Kalamazoo; and all in accordance with the design thereof on file in the office of the City Clerk, such design being expressly made a part of this section the same as if attached hereto.

**§ 2-2. Same—Unlawful display or attachments.**

It shall be unlawful for any person to display the City flag for advertising purposes, or in connection with any advertising matter, picture or device, or to place upon the flag any inscription, letter, picture or device other than those specified in § 2-1.

**§ 2-3. (Reserved)<sup>3</sup>**

**§ 2-4. (Reserved)**

**§ 2-5. (Reserved)**

**§ 2-6. (Reserved)**

**§ 2-7. (Reserved)**

**§ 2-8. (Reserved)**

**§ 2-9. (Reserved)**

**§ 2-10. (Reserved)**

**§ 2-11. (Reserved)**

**§ 2-12. (Reserved)**

**§ 2-13. (Reserved)**

**§ 2-14. (Reserved)**

**§ 2-15. (Reserved)**

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3. Editor's Note: Former § 2-3, relative to the Department of Public Safety, was repealed 9-7-1982 by Ord. No. 1268. Formerly said section derived from Adm. Code, § A211.1. Sec. § 2-291 et seq. for up-to-date provisions relative to the Department of Public Safety.



ARTICLE II  
**City Manager**  
**[Adopted 4-14-1975 by Ord. No. 1048]**

**§ 2-16. Appointment; term; absence. [Amended 10-17-2005 by Ord. No. 1795]**

Pursuant to § 42 of the Charter, the City Commission shall appoint a City Manager, who shall hold office at the pleasure of the City Commission. The City Manager shall designate one primary person from his/her staff to assume the responsibilities and exercise the authority of that office in the event of his/her absence or a vacancy in that office, and shall advise the City Commission in writing of this designation. The City Manager shall also designate an alternate staff member to assume the responsibilities and exercise the authority of that office in the event of his/her absence or a vacancy in that office in the event that the primary staff person is unavailable to serve, and shall advise the City Commission in writing of this designation. Nothing in this section should be construed to limit the authority of the City Manager in the event of his or her temporary absence from that office.

**§ 2-17. (Reserved)<sup>4</sup>**

**§ 2-18. (Reserved)<sup>5</sup>**

**§ 2-19. Conditions of employment generally. [Amended 2-2-1998 by Ord. No. 1647]**

Conditions of employment in addition to those prescribed in this article, shall, from time to time, be embodied in a resolution or ordinance of the City Commission, or in an employment agreement, as deemed appropriate for public information and record.

**§ 2-20. Not to accept paid consulting or teaching contracts unless with prior approval of City Commission or pursuant to terms of employment agreement. [Amended 2-2-1998 by Ord. No. 1647]**

The City Manager shall not accept any paid consulting or paid teaching contracts, unless with the prior approval of the City Commission or pursuant to the terms and conditions of a written employment agreement.

**§ 2-21. Use of City-owned automobile.**

Any City-owned automobile permanently assigned to the City Manager may, for city business, be used without restriction. Any out-of-city incidental personal use shall be appropriately reported to the City Auditor and the City shall be fully reimbursed for any such use on a monthly basis. No such vehicle shall be used for vacations.

**§ 2-22. Out-of-state travel.**

All out-of-state travel by the City Manager, excepting vacations, shall be reported in reasonable detail to the City Commission on a monthly basis. Except for emergency situations, the City Commission shall be notified of anticipated absences of more than 24 hours.

**§ 2-23. Vacation.**

The annual vacation to be accrued by and authorized for the City Manager shall be determined at the time of employment and shall thereafter be periodically reviewed as the City Commission may deem appropriate.

**§ 2-24. (Reserved)<sup>6</sup>**

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4. Editor's Note: Former § 2-17, Deputy City Manager, added 7-18-1977 by Ord. No. 1116, as amended 3-10-1986 by Ord. No. 1372 and 6-6-1994 by Ord. No. 1578, was repealed 10-17-2005 by Ord. No. 1795.

5. Editor's Note: Former § 2-18, Assistant City Manager, added 7-18-1977 by Ord. No. 1116, as amended 3-10-1986 by Ord. No. 1372 and 6-6-1994 by Ord. No. 1578, was repealed 10-17-2005 by Ord. No. 1795.

§ 2-25  
§ 2-25. (Reserved)<sup>7</sup>

§ 2-26. (Reserved)<sup>8</sup>

§ 2-27. (Reserved)<sup>9</sup>

**§ 2-28. Issuance of administrative rules and regulations. [Adm. Code § A203.16]**

The City Manager is authorized to issue such administrative rules and regulations, in addition to those embodied in the Charter and the ordinances of the City, as are necessary to provide for the adequate functioning of all departments.

§ 2-29. (Reserved)

§ 2-30. (Reserved)

§ 2-31. (Reserved)

§ 2-32. (Reserved)

§ 2-33. (Reserved)

§ 2-34. (Reserved)

§ 2-35. (Reserved)

§ 2-36. (Reserved)

§ 2-37. (Reserved)

§ 2-38. (Reserved)

§ 2-39. (Reserved)

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6. Editor's Note: Former § 2-24, Direction and supervision of department heads, derived from Adm. Code § A203.12, was repealed 10-17-2005 by Ord. No. 1795.

7. Editor's Note: Former § 2-25, Reports from department heads, derived from Adm. Code § A203.12, was repealed 10-17-2005 by Ord. No. 1795.

8. Editor's Note: Former § 2-26, Authority to fill positions in case of absence, disability or vacancy, derived from Adm. Code § A203.13, was repealed 10-17-2005 by Ord. No. 1795.

9. Editor's Note: Former § 2-27, Assignment of departmental office and working space, derived from Adm. Code § A203.14, was repealed 10-17-2005 by Ord. No. 1795.

ARTICLE III  
City Attorney

[Adopted 4-14-1975 by Ord. No. 1048; amended 10-17-2005 by Ord. No. 1795]

**§ 2-40. Appointment; term; qualifications; absence.**

- A. The City Commission shall appoint a City Attorney, who shall hold office at the pleasure of the City Commission. The City Attorney shall designate a primary and an alternate staff member to assume the responsibilities of and exercise the authority of that office in the event of his/her absence, and shall advise the City Commission in writing of this designation.
- B. The City Attorney must, at the time of employment, be a member in good standing of the State Bar of Michigan, or be eligible for immediate admission to practice before the Supreme Court of this state. Failure to be immediately admitted to practice or to remain a member in good standing of the State Bar shall constitute a disqualification for the position of City Attorney.

**§ 2-41. Conditions of employment generally.**

Conditions of employment for the City Attorney, in addition to those specified in this article, shall, from time to time, be embodied in a resolution or ordinance of the City Commission, or in an employment agreement, as deemed appropriate for public information and record.

**§ 2-42. Not to accept paid consulting or teaching contracts.**

The City Attorney shall not accept any paid consulting or paid teaching contracts, unless with the prior approval of the City Commission or pursuant to the terms and conditions of a written employment agreement.

**§ 2-43. (Reserved)**

**§ 2-44. (Reserved)**

**§ 2-45. (Reserved)**

**§ 2-46. (Reserved)**

**§ 2-47. (Reserved)**

**§ 2-48. (Reserved)**

**§ 2-49. (Reserved)**



ARTICLE IIIA  
Internal Auditor

[Adopted 9-12-1977 by Ord. No. 1122; amended 2-23-1981 by Ord. No. 1218; 10-17-2005 by Ord. No. 1795]

**§ 2-50. Office established; appointment; term.**

There is hereby established the office of Internal Auditor. The Internal Auditor shall be appointed by, serve at the pleasure of, and shall be immediately responsible to the City Commission.

**§ 2-51. Conditions of employment; duties.**

A. Conditions of employment of the Internal Auditor shall from time to time be embodied in a resolution or ordinance of the City Commission, or in an employment agreement, as deemed appropriate for public information and record. Until further defined by the City Commission, the duties of the Internal Auditor shall include the following:

- (1) To audit any area of City operations from a financial, operational, i.e., internal control system, and compliance standpoint as he or she may deem appropriate and necessary to support a determination as to whether such operations are being conducted in accordance with established policies and procedures related thereto and in conformance with directions of the City Commission and statutes, rules and regulations of the state.
- (2) To perform such special audits and to render reports thereon as may be directed by the City Commission or by a committee of the City Commission.
- (3) To report to the City Commission findings and recommendations based upon routine and special audits as he or she may deem appropriate or as directed by the City Commission, but not less frequently than at the close of each fiscal year.
- (4) To be prepared to discuss with and make recommendations to the City Commission or to a committee of the City Commission regarding audit and financial reports rendered by the City Auditor and outside auditors engaged by the City Commission.
- (5) To perform such other duties as may be assigned or required by the City Commission or by a committee of the City Commission.

**§ 2-52. (Reserved)**

**§ 2-53. (Reserved)**

**§ 2-54. (Reserved)**

**§ 2-55. (Reserved)**

**§ 2-56. (Reserved)**

**§ 2-57. (Reserved)**





ARTICLE IV  
**Parks and Recreation Advisory Board<sup>10</sup>**  
**[Adopted 5-7-2018 by Ord. No. 1964]**

**§ 2-58. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

BOARD — The Parks and Recreation Advisory Board created by § 2-59.

**§ 2-59. Created; composition.**

There is created and established a Parks and Recreation Advisory Board to consist of nine voting members, all of whom shall be residents of the City. At least two of the Board's members shall be 15 to 17 years old at the time of their appointment.

**§ 2-60. Appointment and terms of members.**

The members of the Board shall be appointed by the City Commission for terms of three years except the initial appointment shall provide for three three-year terms, two two-year terms and two one-year terms. Terms shall begin and terminate on January 1, except that a member shall continue in office until a successor is appointed and takes office. Vacancies shall be filled by the City Commission by appointment for the unexpired term.

**§ 2-61. Election of officers.**

The Board may elect a Chairman and such other officers as it may desire, from its own members.

**§ 2-62. Secretary.**

The City Manager or his or her designee shall assign a City staff member to serve as Secretary of the Board. That person shall provide such administrative support as may be required.

**§ 2-63. General powers and duties.**

- A. The duties of the Board shall be of an advisory nature only to the City Manager and the City Commission. The Board may:
- (1) Consult with and make recommendations to the City Commission regarding parks and recreation planning and programming.
  - (2) Have access to all records, information and data concerning the activities and operations of the Department of Public Services.
  - (3) Have the privilege of visiting and inspecting, at reasonable times, all recreation facilities of the City.

**§ 2-64. Adoption of rules and regulations.**

The Board may adopt rules and make regulations for its own activities.

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**10. Editor's Note: Former Art. IV, Planning Commission, derived from Adm. Code § A218, as amended, was repealed 6-20-2011 by Ord. No. 1883.**  
1:53



ARTICLE IVA  
(Reserved)<sup>11</sup>

§ 2-70. (Reserved)

§ 2-71. (Reserved)

§ 2-72. (Reserved)

§ 2-73. (Reserved)

§ 2-74. (Reserved)

§ 2-75. (Reserved)

§ 2-76. (Reserved)

§ 2-77. (Reserved)

§ 2-78. (Reserved)

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11. Editors Note: Former Art. IVA, relative to the Department of Community Development, consisting of §§ 2-70, 2-70.1 and 2-70.2 (general provisions); §§ 2-73, 2-73.1 (planning division); §§ 2-75, 2-75.1 (building and inspections); §§ 2-77, 2-77.1 (housing and programs division) and §§ 2-78, 2-78.1 (economic development commission) was repealed by Ord. No. 1268, § 27, adopted 9-7-1982. Said provisions formerly derived from Ord. No. 1119, adopted 7-18-1977; Ord. No. 1175, adopted 10-22-1979; and Ord. No. 1251, adopted 4-5-1982.



ARTICLE V  
**Kalamazoo Historic Preservation Commission<sup>12</sup>**  
**[Adopted 8-31-1998 by Ord. No. 1657]**

**§ 2-79. Created.**

There is hereby created and constituted in and for the City a commission, formerly known as the "Kalamazoo Commission for Historical Preservation," which shall be known as the "Kalamazoo Historic Preservation Commission," and hereinafter referred to as the "Commission."

**§ 2-80. Membership, composition, appointment, terms, attendance and removal of members.**

The Commission, formerly composed of nine members, shall be reduced to seven members. Existing members may continue to serve until the end of their existing term. The first two vacancies to occur for any reason shall not be filled. The majority of the members shall have a demonstrated interest in or knowledge of the history of Kalamazoo and/or the principles of historic preservation. As terms expire, members shall be nominated by the Commission, appointed by the Mayor and approved by the City Commission for terms of three years. Under special circumstances the Commission may recommend to the City Commission the appointment of nonresident members. A majority of the members shall be City residents. No member may serve more than two full consecutive terms. Vacancies occurring other than by the expiration of term shall be filled for the unexpired term by a nomination from the Commission and approval by the City Commission. A membership shall be deemed vacated if the member has more than 50% unexcused absences at regular meetings within any half-calendar year, January through June or July through December. A member may be removed for neglect of duty, misconduct or malfeasance by a majority vote of the City Commission.

**§ 2-81. Election of officers; bylaws and procedural rules; annual report.**

The Commission shall elect a Chair and Vice-Chair from among its members. It shall establish bylaws and procedural rules and provide for an annual orientation after new appointments are made. Once each year, the Commission will make a detailed report of its activities to the City Commission.

**§ 2-82. Members not compensated.**

Members of the Commission shall receive no compensation for their services.

**§ 2-83. Duties. [Amended 4-30-2007 by Ord. No. 1824; 12-20-2021 by Ord. No. 2042]**

It shall be the duty of the Kalamazoo Historic Preservation Commission to prepare and keep current an inventory of historic resources within the City which, in its judgment, have such value as to warrant preservation and/or redevelopment; to publish such inventory; and to cooperate with the owners of such resources in devising and carrying out appropriate means for their preservation and/or redevelopment. Fulfillment of these duties may include providing financial or other support for: a) interior and/or exterior repairs and rehabilitation on buildings which are 50 years or older, provided that the work meets the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR 68 ("Standards") and b) the preparation of research and implementation of historic context statements, inventories, designation nominations, preservation plans, and similar activities, provided that any physical work planned as part of a historic resource project also meets the appropriate Standards. The Commission shall also encourage the collection of materials illustrative of the history of Kalamazoo and encourage their deposit into public or educational institutions within the City or the state that the Commission deems most suitable for their preservation and use. The Commission may support and produce historical publications. The Commission shall cooperate with the City in preserving official records and documents so that they may be

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12. Editors Note: Ord. No. 1244, §§ 1—6, codified herein as Art. VI, §§ 2-79—2-84, has been treated as superseding former §§ 2-79—2-87, relative to the historical commission. The deleted provisions derived from Adm. Code, §§ A227—A227.5. Ord. No. 1657, §§ 1—7, adopted 8-31-1998, further amended this article to read as herein set out.

§ 2-83  
available for public use. The Commission shall be responsible for the coordination and nomination of national register and state register historic districts, sites and/or individual properties, and may support the creation of local historic districts. The Commission shall encourage and promote historic preservation and educate the public on preservation whenever possible. The Commission may support the inclusion of historic preservation concepts in planning and land use; and carry out other activities as assigned by the City. The Commission shall also carry out the duties of the historic district study committee as set forth in MCLA § 399.201 et seq. and Chapter 16 of the Kalamazoo City Code. § 2-98

**§ 2-84. Acceptance of donations; deposit and distribution of gifts.**

The Commission shall have the power, with the approval of the City Commission, to accept donations of personal, real, intellectual or other property in support of its duties. Such donations shall vest in the City, subject to the control of the Commission in accordance with the deed, device, bequest, grant or instrument of such donations. Gifts of money shall be deposited in special accounts by the City Treasurer from which disbursements shall be made by resolution of the Commission, subject to the approval of the City Commission.

**§ 2-85. (Reserved)**

**§ 2-86. (Reserved)**

**§ 2-87. (Reserved)**

**§ 2-88. (Reserved)**

**§ 2-89. (Reserved)**

**§ 2-90. (Reserved)**

**§ 2-91. (Reserved)**

**§ 2-92. (Reserved)**

**§ 2-93. (Reserved)**

**§ 2-94. (Reserved)**

**§ 2-95. (Reserved)**

**§ 2-96. (Reserved)**

**§ 2-97. (Reserved)**

**§ 2-98. (Reserved)**

ARTICLE VA  
**Environmental Concerns Committee**  
**[Adopted 10-20-1975 by Ord. No. 1067]**

**§ 2-99. Definition.**

As used in this article, the following terms shall have the meanings indicated:

COMMITTEE — The Environmental Concerns Committee created by § 2-100.

**§ 2-100. Created; composition; appointment and terms of members; officers. [Amended 3-5-1984 by Ord. No. 1315]**

- A. There is hereby officially created and established an "Environmental Concerns Committee," to consist of 11 voting members, residents of the City, appointed by the City Commission, plus such advisory consultants and liaison officials as the City Commission may from time to time deem appropriate and appoint.
- (1) Members of the present ad hoc committee shall automatically become members of the environmental concerns committee to serve the remainder of the terms for which appointed.
  - (2) Terms shall be for three years and shall begin and terminate on January first, except that a member shall continue in office until a successor is appointed and takes office. Any vacancy shall be filled by the City Commission for the unexpired term.
  - (3) Voting members may be reappointed, but only for a second consecutive full term.
  - (4) The committee may elect a chairman and such other officers as it may desire from its own membership and may adopt rules for its own activities.

**§ 2-101. Limitation on reappointment of members.**

Voting members of the committee may be reappointed, but only for a second consecutive full term.

**§ 2-102. Election of officers; adoption of rules.**

The committee may elect a chairman and such other officers as it may desire from its own membership and may adopt rules for its own activities.

**§ 2-103. Responsibilities.**

- A. The responsibilities of the committee shall be advisory only to the City Commission and the City Manager and shall include:
- (1) To identify significant environmental trends or activities in the City and, when warranted, report the anticipated effect of such trends or activities to the City Commission, with recommendations where appropriate.
  - (2) To provide, where appropriate, a forum for citizen input on matters affecting environmental quality in the City and to report to the City Commission citizen concern with regard thereto.
  - (3) To provide, upon request of either the City Commission or the City Manager, information and recommendations, if any, with regard to specific environmental matters.
  - (4) To be apprised of those activities of the City which have significant environmental impact and, where appropriate, to provide information and recommendations to the City Commission.

- § 2-103
- (5) To consult with environmental agencies of other governmental jurisdictions to identify and recommend solutions to environmental problems extending into the City from beyond its corporate limits. § 2-104
- (6) When so requested, to review environmental impact assessments prepared by or on behalf of City departments and to submit an analysis thereof and recommendations with regard thereto to the City Commission.

**§ 2-104. (Reserved)**



ARTICLE VB  
**Water System Advisory Council<sup>13</sup>**  
**[Adopted 12-3-2018 by Ord. No. 1975]**

**§ 2-105. Creation.**

As required by Michigan Department of Environmental Quality Administrative Rule R325.10410, the City of Kalamazoo, as the operator of a public water supply system that serves a population of 50,000 or more, creates and establishes a Water System Advisory Council to serve in an advisory capacity to the Public Services Director.

**§ 2-106. Membership.**

- A. The Council shall consist of seven members, nominated by the Public Services Director and appointed by the City Commission for staggered terms of three years, except the initial appointments which shall consist of two members whose terms end December 31, 2019, three members whose terms end December 31, 2020, and two members whose terms end December 31, 2021. Members are eligible to serve a maximum of two consecutive terms. Vacancies on the Council shall be filled for the remainder of an unexpired term in the same manner as the original appointment.
- B. To be eligible for appointment to the Council, an individual shall have a demonstrated interest in or knowledge about lead in drinking water and its effects. At least one member must be a local resident who is a customer of the Kalamazoo public water system and who does not formally represent the interests of any incorporated organization.
- C. The Public Services Director or the designee thereof shall be an ex officio nonvoting member of the Council.

**§ 2-107. Meetings.**

- A. All business that the Council may perform shall be conducted at a public meeting of the Council and held in compliance with the Michigan Open Meetings Act, 1976 PA 267, MCLA § 15.261 et seq.
- B. The first meeting of a Council shall be called by the Public Services Director. At the first meeting, the Council shall elect from its members a Chairperson and such other officers as it considers necessary or appropriate and adopt rules of procedure. After the first meeting, the Council shall meet at least once each calendar year. Meetings of the Council may be called by the Chairperson or the Public Services Director.
- C. A majority of the members of the Council shall constitute a quorum for the conduct of business at a meeting. A majority of the members present and serving are required for official action of the Council.
- D. A writing prepared, owned, used, in the possession of, or retained by the Council in the performance of an official function is subject to the Michigan Freedom of Information Act, 1976 PA 442, MCLA § 15.231 et seq.

**§ 2-108. Powers and duties.**

- A. The Council shall do the following:
  - (1) Develop plans for continuing public awareness about lead in drinking water, even when the action level is not exceeded.
  - (2) Review public awareness campaign materials provided by the statewide Drinking Water Advisory Council to ensure the needs and interests of the community, considering the economic and cultural

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13. Editor's Note: Ord. No. 1578, adopted 6-6-1994, repealed former Art. VB, §§ 2-105—2-107, in its entirety. Former Art. VB pertained to the Bureau of Real Estate and Risk Management and derived from Ord. No. 1117, adopted 7-18-1977.

§ 2-108

§ 2-108

diversity of its residents, are addressed.

- (3) Advise and consult with the Public Services Director on the development of appropriate plans for remediation and public education to be implemented if a lead action level is exceeded.
  - (4) Advise and consult with the Public Services Director on efforts to replace private lead service lines at locations where the owner declined service line replacement.
  - (5) Assist in promoting transparency of all data and documents related to lead in drinking water within the water supply service area.
  - (6) Collaborate with local community groups to ensure that residents have the opportunity to be involved in efforts to educate the community about lead in drinking water.
- B. The Council may independently seek advice, direction, and assistance from the Michigan Department of Environmental Quality or its authorized agent or representative or the statewide Drinking Water Advisory Council.

§ 2-109

§ 2-109

ARTICLE VI  
(Reserved)<sup>14</sup>

§ 2-109. through § 2-117. (Reserved)

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14. Editors Note: Article VI, relative to the Department of Finance, consisting of §§ 2-109 - 2-111 (generally); §§ 2-112, 2-112.1 (comptroller); §§ 2-113, 2-113.1, 2-113.2 (data processing); §§ 2-114, 2-114.1 (City Assessor); §§ 2-115, 2-115.1 (City Treasurer) and §§ 2-116, 2-116.1, 2-116.2 (Purchasing Agent) was repealed by Ord. No. 1268, enacted 9-7-1982. Said provisions derived from Ord. No. 1121, enacted 9-12-1977.



ARTICLE VII  
**Purchases, Sales and Contracts**  
**[Derived from Adm. Code §§ A503, A504]**

**§ 2-118. Powers and duties of Purchasing Agent generally.<sup>15</sup> [Amended 9-12-1977 by Ord. No. 1121]**

- A. The Purchasing Agent shall purchase or contract for all supplies, materials, equipment and contractual services needed by any and all departments or agencies of the City.
- B. All personal property of the City not needed for public use, or that may have become unsuitable for public use, shall be sold by the Purchasing Agent. However, sales of major importance must first have the approval of the City Manager.

**§ 2-119. Rules and regulations for operation of Purchasing Division. [Amended 9-7-1982 by Ord. No. 1268; 11-29-1999 by Ord. No. 1689]**

The Purchasing Agent shall, from time to time, prepare such rules and regulations for the operation of the Purchasing Division as may appear necessary and helpful, which rules and regulations shall be subject to the approval of the City Manager.

**§ 2-120. General purchasing procedure. [Amended 11-29-1999 by Ord. No. 1689]**

The City Commission shall establish, by resolution, the purchasing policies of the City, including but not limited to requirements for competition and authority for approving contracts.

**§ 2-121. Preparation of specifications for purchases. [Amended 11-29-1999 by Ord. No. 1689]**

The requesting departments shall be responsible for preparing technical specifications for services, materials, supplies and equipment and submit them to the Purchasing Agent.

**§ 2-122. Inspection and testing of purchased materials. [Amended 9-7-1982 by Ord. No. 1268]**

Either the Purchasing Agent or the requisitioning department shall inspect all materials received to make sure that they meet with the required specifications. The Purchasing Agent may arrange with laboratories for the testing of materials when necessary.

**§ 2-123. Encumbrance of funds. [Amended 11-29-1999 by Ord. No. 1689]**

Except in case of emergency, departments shall not requisition any contract or open market order for which there is not a sufficient appropriation balance, in excess of all unpaid obligations, to defray the cost of such supplies, materials, equipment or contractual services.

**§ 2-124. (Reserved)<sup>16</sup>**

**§ 2-125. Special requirements for construction contracts in excess of \$100,000. [Amended 12-8-1986 by Ord. No. 1395; amended 9-26-1994 by Ord. No. 1580]**

- A. The provisions of this section, unless otherwise specifically provided by the City Commission with regard to a designated project, shall not apply to projects constructed by City employees or to a construction contract the costs of which are not in excess of \$100,000. As it pertains to this section, however, multiple contracts for

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15. Editor's Note: See also Charter § 52, Purchasing Agent.

16. Editor's Note: Ord. No. 1689, adopted 11-29-1999, repealed former § 2-124 in its entirety, which pertained to a general storehouse and storeroom for purchased supplies, and derived from the Adm. Code, § A503.6.

§ 2-125 a unified construction or maintenance job totaling over \$100,000 shall be considered as one contract and prevailing wages shall apply. § 2-135

B. The advertised specifications for every contract in excess of \$100,000 to which the City is a party, for construction, alteration, or repair, including painting and decorating of public buildings or public works in or for the City, and which requires or involves the employment of mechanics or laborers, shall contain a provision stating the minimum wages to be paid the various classes of laborers and mechanics, which shall be based upon the wages determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of character similar to the contract work in or in the vicinity of the City.

C. Every contract based upon specifications referred to in Subsection B above shall contain a stipulation that:

- (1) The contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amount accrued at the time of payment, computed at wage rates not less than those stated in the advertised specification, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics;
- (2) The scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and
- (3) The prime contractor and all subcontractors shall submit weekly certified payrolls documenting the hours worked and wages paid by work classification; and
- (4) There may be withheld from the contractor so much of accrued payments as may be considered necessary by the City Manager to pay to laborers and mechanics employed by the contractor or any subcontractor on the work for the difference between the rates of wages required by the contract and the rates of wages received by such laborers and mechanics, except those amounts properly deducted or refunded pursuant to the terms of the Davis-Bacon Act (USC, Title 40, Section 276a), as amended and interpretations thereof.

D. The overtime pay to which a laborer or mechanic working on a project pursuant to a contract subject to this section is entitled shall be that overtime pay to which he is entitled by any agreement he may have made with the contractor or subcontractor or by any applicable provision of law, but in no event shall such amount be less than the prevailing wage in the Kalamazoo community for such overtime.

§ 2-126. (Reserved)

§ 2-127. (Reserved)

§ 2-128. (Reserved)

§ 2-129. (Reserved)

§ 2-130. (Reserved)

§ 2-131. (Reserved)

§ 2-132. (Reserved)

§ 2-133. (Reserved)

§ 2-134. (Reserved)

§ 2-135  
§ **2-135. (Reserved)**

§ 2-136

§ **2-136. (Reserved)**





ARTICLE VIII  
**Personnel Generally; Civil Service**  
**[Adopted 9-27-1976 by Ord. No. 1099]**

DIVISION 1  
 Generally

**§ 2-137. Implementation of Charter.**

Sections 162 and 197 of the Charter are hereby implemented as provided in this article.

**§ 2-138. Definitions. [Amended 9-26-1994 by Ord. No. 1580]**

The following terms, when used in this article, shall have the following meanings, unless the context clearly requires otherwise:

**DIRECTORS OF DEPARTMENTS** — The appointive authorities in charge of departments as now established in § 44 of the Charter or which hereafter may be created by the City Commission in accordance with the authority vested in it by § 46 of the Charter.

**POSITION** — Any office or place of employment in the City classified service, such that the duties and responsibilities appertaining thereto are exercised by one person.

**PROBATIONARY PERIOD** — A trial working period, as set in the rules, which is made a part of the selective process, during which the work and conduct of the employee shall be noted by the department head or his authorized representative and reported upon to determine whether such employee merits regular employment.

**§ 2-139. Exemptions from (civil service) article. [Amended 9-7-1982 by Ord. No. 1268; 3-26-1990 by Ord. No. 1488; 6-6-1994 by Ord. No. 1578; 9-9-2002 by Ord. No. 1743]**

The City Commission, either by ordinance or resolution, shall at least on an annual basis approve a list of positions that are exempt from the provisions of this article. Unless otherwise provided, the City Manager may designate newly created positions as exempt on an interim basis from the provisions of this article. The City Manager or his/her designee shall maintain a complete and current list of all positions covered by the provisions of this article or by any future ordinance or resolution exempting any position from the provisions of this article, and shall annually prepare a proposed list of positions exempt from the provisions of this article for consideration by the City Commission.

**§ 2-140. (Reserved)<sup>17</sup>**

**§ 2-141. (Reserved)<sup>18</sup>**

**§ 2-142. (Reserved)<sup>19</sup>**

**§ 2-143. (Reserved)<sup>20</sup>**

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17. Editor's Note: Sections 2-140—2-144, relative to the Personnel Department, Director and rules and regulations, were repealed by Ord. No. 1268, adopted 9-7-1982. Said former sections derived from Ord. No. 1099, § 2, (A401.1, A401.2), adopted 9-27-1976.

18. Editor's Note: Sections 2-140—2-144, relative to the Personnel Department, Director and rules and regulations, were repealed by Ord. No. 1268, adopted 9-7-1982. Said former sections derived from Ord. No. 1099, § 2, (A401.1, A401.2), adopted 9-27-1976.

19. Editor's Note: Sections 2-140—2-144, relative to the Personnel Department, Director and rules and regulations, were repealed by Ord. No. 1268, adopted 9-7-1982. Said former sections derived from Ord. No. 1099, § 2, (A401.1, A401.2), adopted 9-27-1976.

20. Editor's Note: Sections 2-140—2-144, relative to the Personnel Department, Director and rules and regulations, were repealed by Ord. No. 1268, adopted 9-7-1982. Said former sections derived from Ord. No. 1099, § 2, (A401.1, A401.2), adopted 9-27-1976.

§ 2-144  
§ 2-144. (Reserved)<sup>21</sup>

§ 2-154

§ 2-145. (Reserved)

§ 2-146. (Reserved)

§ 2-147. (Reserved)

§ 2-148. (Reserved)

§ 2-149. (Reserved)

§ 2-150. (Reserved)

DIVISION 2

Civil Service Board [Amended 3-8-1993 by Ord. No. 1553; 5-1-2006 by Ord. No. 1801]

**§ 2-151. Reestablished; composition; qualifications of members; members to serve without pay.**

Under and pursuant to Charter § 162, a Civil Service Board, consisting of three members appointed by the City Commission, is hereby reestablished. All members shall be residents of the City, shall not hold other public office, shall serve without pay and shall believe in the merit system of City employment.

**§ 2-152. Appointment, terms and removal of members.**

Those members of the previously constituted Civil Service Board are hereby reappointed to serve for the remainder of the term for which last appointed. In February of each odd-numbered year, a board member shall be appointed or reappointed for a term of six years and until a successor has been appointed and takes office. Vacancies in the board shall be filled in the same manner as regular appointments for the unexpired term. The City Commission may remove any member as provided by the City Commission's rules.

**§ 2-153. General duties.**

A. The duties of the Civil Service Board shall include:

- (1) Electing a chairman and such other officers from its own members as it may desire;
- (2) Adopting rules and make regulations for its own activities; and
- (3) Hearing and deciding appeals of City employees who are not members of collective bargaining units, and who are not otherwise exempt from the provisions of the City's civil service system pursuant to § 2-139 of the City Code, from findings and decisions of the City Manager made pursuant to § 2-166.

**§ 2-154. General powers.**

A. The Civil Service Board shall have the following powers and authority necessary to perform its functions:

- (1) To employ a qualified reporter to prepare a record of proceedings for the hearing of those appeals or complaints deemed by the board to be serious enough to warrant such expenditure. The City Manager shall furnish the necessary funds.

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21. Editor's Note: Sections 2-140—2-144, relative to the Personnel Department, Director and rules and regulations, were repealed by Ord. No. 1268, adopted 9-7-1982. Said former sections derived from Ord. No. 1099, § 2, (A401.1, A401.2), adopted 9-27-1976.

- § 2-154
- (2) To direct that the City Manager make available, during normal duty hours, such City employees as the board may deem necessary to testify as witnesses with regard to an appeal. § 2-163
- (3) To request the attendance of non-City employees to testify with regard to any appeal. The record of the hearing shall include a copy of any requests to appear which were unheeded by the addressee.
- (4) To report its findings and recommendations to the City Manager.

**§ 2-155. Appeals to board — Generally.**

- A. An appeal from the finding and/or a decision of the City Manager shall be made in writing, addressed to the Civil Service Board in care of the office of the City Clerk, within 10 business days of the receipt of the finding and decision of the City Manager.
- B. Upon receipt of an appeal, either for a review of the record or for an evidentiary-type hearing, if requested by the employee and granted by the board, the board shall set a date and notify the City Manager, the employee, the City Attorney and the City Clerk of the time and place and whether to bring witnesses. The employee shall be advised of the continued right of private counsel at his or her discretion and personal expense. Notice shall be sent to the employee's attorney if the attorney has filed an appearance with the City Clerk, with a copy to the City Attorney.
- C. Following a hearing, the Civil Service Board shall render a written findings of fact and its decision. The original shall be filed in the office of the City Clerk, with a copy forwarded to the City Manager, the City Attorney, and the employee.

**§ 2-156. Same — Reinstatement of employee.**

After a hearing, as provided for in § 2-155, on a timely appeal from a finding and decision of the City Manager rendered in accordance with the provisions of Division 3 of this article, and in accordance with its own findings and decision, the Civil Service Board may direct the reinstatement of the employee as of the date of the suspension, demotion or discharge with no, partial or full compensation, as the board may deem appropriate.

**§ 2-157. Appeals from board.**

Either party may appeal a decision of the Civil Service Board to the Kalamazoo County Circuit Court, in the manner provided by law.

**§ 2-158. Inspection of board's records.**

The records of the Civil Service Board shall be open to inspection and copying to the extent permitted by the Michigan Freedom of Information Act.<sup>22</sup>

**§ 2-159. (Reserved)**

**§ 2-160. (Reserved)**

**§ 2-161. (Reserved)**

**§ 2-162. (Reserved)**

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22. Editor's Note: See MCLA § 15.231 et seq.

## DIVISION 3

## Disciplinary Procedures [Amended 5-1-2006 by Ord. No. 1801]

**§ 2-164. Definitions.**

The following definitions of terms shall apply in this article.

**CITY MANAGER** — Includes an officer of the City who has had no prior connection with the pending matter designated in writing by the City Manager to exercise the powers of the Manager with regard to a specific matter or appeal.

**EMPLOYEE** — Includes a person employed by the City who has passed his or her probationary period, is not a member of a collective bargaining unit, and who is not otherwise exempt from the provisions of the City's civil service system pursuant to § 2-139 of the City Code.

**HUMAN RESOURCES DEPARTMENT** — That department or division responsible for human resources and personnel for the City.

**INVESTIGATION** — An inquiry conducted by an individual or individuals assigned by the City Manager or the City Manager's designee and the individual assigned by the City Attorney or the City Attorney's designee to investigate an appeal of a disciplinary action taken against an employee. The City Manager and City Attorney may agree to appoint a single individual to conduct the investigation.

**§ 2-165. Employee's right to explain circumstances to supervisor.**

Before any disciplinary or punitive action is imposed upon an employee covered by this article, the employee shall, during working hours, be given an opportunity to explain the circumstances of the incident to the officer or supervisor having the authority and the power to impose disciplinary or punitive action.

**§ 2-166. Complaint investigation procedures.**

- A. Unless the employee is covered by a collective bargaining agreement, which provides an appeals procedure, or unless the employee is not otherwise exempt from the provisions of the City's civil service system pursuant to § 2-139 of the City Code, the employee may, within five business days, file a written appeal of any discipline imposed, provided that such discipline results in an unpaid suspension, demotion, or other loss of benefits. All appeals shall be filed with the City Manager, with a copy delivered to the Human Resources Department. All written appeals should identify those witnesses the employee believes can provide relevant information.
- B. Upon receipt of such an appeal, the City Manager shall, within five business days, advise the employee in writing that the employee will meet with the individual(s) conducting the investigation within two weeks of receipt of the written notice of appeal. The appeal letter should identify all witnesses that the employee wants to be interviewed during the investigation.
- C. The employee may bring legal counsel at his or her desire and personal expense to this meeting. The City Manager and City Attorney shall, within five business days of the date an appeal is received, consult and appoint the individual(s) who shall conduct the investigation.
- D. The investigative team conducting the investigation shall interview the employee, any witnesses identified by the employee, any witnesses that it feels might have relevant information, and review any documentary records presented by the employee, and shall also have the right to interview other City employees and review City records. The investigative team may also reinterview any witnesses, including the employee.
- E. The investigative team shall prepare a report of its findings and recommended decision, and forward it to the

§ 2-166 City Manager. The City Manager may either accept the report or ask that certain matters be reconsidered or § 2-188 reinvestigated. The investigation of the complaint shall be completed when the City Manager signs the final report prepared by the investigative team.

F. This report shall be placed in the employee's personnel file with additional copies sent to the employee, his or her attorney as applicable, and to his or her department head. Included in the report shall be instructions as to the right of appeal to the Civil Service Board pursuant to § 2-155 regarding the finding and decision.

§ 2-167. (Reserved)

§ 2-168. (Reserved)

§ 2-169. (Reserved)

§ 2-170. (Reserved)

§ 2-171. (Reserved)

§ 2-172. (Reserved)

§ 2-173. (Reserved)

§ 2-174. (Reserved)

§ 2-175. (Reserved)

§ 2-176. (Reserved)

§ 2-177. (Reserved)

§ 2-178. (Reserved)

§ 2-179. (Reserved)

§ 2-180. (Reserved)

§ 2-181. (Reserved)

§ 2-182. (Reserved)

§ 2-183. (Reserved)

§ 2-184. (Reserved)

§ 2-185. (Reserved)

§ 2-186. (Reserved)

§ 2-187. (Reserved)

§ 2-188. (Reserved)



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ARTICLE IX  
(Reserved)<sup>23</sup>

§ 2-189. (Reserved)

§ 2-190. (Reserved)

§ 2-191. (Reserved)

§ 2-192. (Reserved)

§ 2-193. (Reserved)

§ 2-194. (Reserved)

§ 2-195. (Reserved)

§ 2-196. (Reserved)

§ 2-197. (Reserved)

§ 2-198. (Reserved)

§ 2-199. (Reserved)

§ 2-200. (Reserved)

§ 2-201. (Reserved)

§ 2-202. (Reserved)

§ 2-203. (Reserved)

§ 2-204. (Reserved)

§ 2-205. (Reserved)

§ 2-206. (Reserved)

§ 2-207. (Reserved)

§ 2-208. (Reserved)

§ 2-209. (Reserved)

§ 2-210. (Reserved)

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23. Editor's Note: Former Art. IX, Unemployment Compensation for Employees, comprised of §§ 2-189 through 2-222, adopted 12-23-1974 by Ord. No. 1041, as amended, was repealed 10-17-2005 by Ord. No. 1795 and 5-1-2006 by Ord. No. 1801. Division 2 of Art. IX (§§ 2-206 through 2-211) was repealed 1-25-1982 by Ord. No. 1242. Said provisions formerly concerned an unemployment compensation appeal board and was derived from Ord. No. 1041 (A406.7), enacted 12-23-1974.

§ 2-211  
§ 2-211. (Reserved)

§ 2-222

§ 2-212. (Reserved)

§ 2-213. (Reserved)

§ 2-214. (Reserved)

§ 2-215. (Reserved)

§ 2-216. (Reserved)

§ 2-217. (Reserved)

§ 2-218. (Reserved)

§ 2-219. (Reserved)

§ 2-220. (Reserved)

§ 2-221. (Reserved)

§ 2-222. (Reserved)



ARTICLE X  
**Employee Retirement System**  
**[Derived from Adm. Code § A405; last amended 12-17-2007 by Ord. No. 1835]**

**§ 2-223. Established; citation of article; intent.**

The City of Kalamazoo Employees Retirement System established by authority of § 197 of the Charter and Ordinance No. 378, as amended, is hereby continued, as amended and restated effective January 1, 2006. This article may be cited as the "City of Kalamazoo Employee Retirement System Ordinance." The Retirement System Ordinance shall be maintained for the exclusive benefit of members and is intended to qualify as a governmental plan under Sections 401(a) and 414(d) of the Internal Revenue Code of 1986, as amended from time to time (the "Code"), and with the requirements of any other applicable law.

**§ 2-224. Definitions.**

The following words and phrases, as used in this article, unless a different meaning is clearly required by the context, shall have the following meanings. Words used in the masculine gender shall be construed as though they were also used in the feminine or neuter gender where applicable, and words used in the singular will be construed as though they were also used in the plural, where applicable.

**ACCUMULATED CONTRIBUTIONS** — The sum of all amounts deducted from the compensation of a member, or "picked up" by the City pursuant to § 2-248F, and credited to his or her individual account in the annuity savings fund, together with interest credited to January 1, 1952, and regular interest credited after December 31, 1951.

**ANNUITY** — An annual amount, derived from a member's accumulated contributions, payable in equal monthly installments throughout the future life of a person.

**ANNUITY RESERVE** — The present value of all future payment to be made on account of any annuity. An annuity reserve shall be computed upon the basis of such mortality table, and regular interest, as the Board shall from time to time adopt.

**BENEFICIARY** — Any person, except a retirant, who is in receipt of, or who is designated to receive, a pension, retirement allowance or other benefit payable by the retirement system. Notwithstanding the foregoing, a member may designate a trust as his or her secondary beneficiary under the retirement system, and the beneficiaries of the trust with respect to the trust's interest in the member's benefit under the retirement system shall be treated as the member's designated beneficiary for purposes of Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-4, provided that the terms of Q&A-5 and Q&A-6 of such Treasury Regulation are satisfied.

**BOARD or BOARD OF TRUSTEES** — The Board of Trustees provided in § 2-225.

**CITY** — The City of Kalamazoo.

**COMPENSATION** — A member's salary or wages paid him or her by the City for services rendered by him as an employee of the City. Compensation shall include any amounts that are contributed by the City pursuant to a salary reduction agreement and that are not includable in the member's gross income under Code Section 125, 132(f), 401(k), 403(b) or 457(b). In case a member's compensation is not all paid in money, the City Manager shall fix the value of the portion of his or her compensation that is not paid in money.

- A. Compensation shall not include any sums paid to a member as worker's compensation or contractual supplements thereto, unless the following requirements are both fulfilled:
- (1) The member is in receipt of said sums while the member is off work during the final three years of his or her membership because of a disability which, if permanent, would qualify him or her for a duty disability retirement allowance under § 2-243B; and
  - (2) The member contributes the prescribed percentage of said sums to the annuity savings fund under § 2-248B within 180 calendar days of returning to work. Compensation shall include any employee

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contribution "picked-up" by the City and treated as an employer contribution pursuant to § 2-248F. § 2-224

- B. Notwithstanding the above, the following are to be considered part of compensation, both for purposes of an employee paying a percentage contribution to the system, and for purposes of determining final average compensation: overtime (except for Public Safety members), holiday pay, sick time pay, vacation pay, retroactive pay, certification bonus, education bonus, standby pay, emergency leave pay, critical leave pay, funeral leave pay, transit annual leave, transit annual leave payout (up to 160 hours), night shift premium, and longevity.
- C. Notwithstanding the above, the following are not to be considered part of compensation, both for purposes of an employee paying a percentage contribution to the system, and for purposes of determining final average compensation: deferred compensation match by the City, Public Safety overtime, compensation ("comp") time, lump sum sick time payout, lump sum vacation payout, car stipend, mileage payment, discretionary bonus, incentive bonus, performance bonus, food allowance, tool allowance, parking allowance, clothes cleaning allowance, clothing allowance, insurance waiver, equipment overtime. **[Amended 5-20-2019 by Ord. No. 1986]**
- D. Notwithstanding any other provision of the retirement system to the contrary, for plan years beginning on or after January 1, 1994, but before plan year 2002, the annual compensation of each member taken into account under the retirement system shall not exceed the OBRA '93 annual compensation limit. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Code Section 401(a)(17)(B). If compensation for any prior determination period is taken into account in determining an employee's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1994, the OBRA '93 annual compensation limit is \$150,000.
- E. The annual compensation of the member taken into account in determining benefit accruals under the retirement system in any plan year beginning after December 31, 2001, or such other consecutive twelve-month period over which Compensation is otherwise determined under the retirement system (the "determination period") shall not exceed \$200,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Code Section 401(a)(17)(B).
- F. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

**CREDITED SERVICE** — The number of years and fraction thereof standing to a member's credit, as provided in this article. Effective January 1, 1999, as to Public Safety members, and effective March 13, 2000, as to KMEA members, the amount of service time that will be credited to such a member who is classified and worked as a part-time employee of the City will be calculated by pro-rating the number of hours worked in a year against the number of hours regularly scheduled in that year for a full-time employee in that classification. For example, an employee who works 30 hours per week in a position where full-time employees regularly work 40 hours per week will be credited with 00.75 year of service for that year. For Public Safety members, credited service as of January 1, 1999, shall be the amount of time which has elapsed between that date and each individual's seniority date, in addition to any time purchased pursuant to the split-service provisions set forth below. When a Public Safety member is absent from work and receiving sick pay benefits (either the member's or from donated sick leave time) from which pension contributions are deducted, the period of time the employee is absent and receiving sick leave benefits will be counted towards the member's credited service. Public Safety members on medical leave of absence who are receiving worker's compensation benefits may have period of such leave counted towards credited service by electing at the commencement of the leave to make regular pension contributions while on the leave.

**DIRECT ROLLOVER** — A payment by the retirement system to the eligible retirement plan specified by the

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distributee.

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**DISTRIBUTE** — An employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity. **[Amended 11-19-2012 by Ord. No. 1905]**

**ELIGIBLE RETIREMENT PLAN** —

A. Means:

- (1) An individual retirement account described in Code Section 408(a);
- (2) An individual retirement annuity described in Code Section 408(b);
- (3) A qualified retirement plan described in Code Section 401(a) or 403(a);
- (4) For distributions made after December 31, 2001, a tax-sheltered annuity plan described in Code Section 403(b) or an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, which agrees to accept and separately account for amounts transferred into such plan from this Retirement System; and
- (5) For distributions made after December 31, 2007, a Roth individual retirement account, subject to applicable code requirements.

B. This definition shall also apply in the case of a distribution made after December 31, 2001, to a surviving spouse, or to a spouse or former spouse who is the alternate payee under an EDRO. Subsection A(1) and (2) contained herein shall apply in the case of a distribution made after December 31, 2006, to a beneficiary.

**ELIGIBLE ROLLOVER DISTRIBUTION** — Any distribution of all or any portion of the refund of accumulated contributions paid to a member, a surviving spouse, a spouse or former spouse who is the alternate payee under an EDRO, or, effective January 1, 2007, a beneficiary, under the retirement system, except that an eligible rollover distribution does not include:

- A. Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the member or for the joint lives (or joint life expectancies) of the member and the member's beneficiary, or for a specified period of 10 years or more;
- B. Any distribution to the extent such distribution is required under Code Section 401(a)(9);
- C. The portion of any distribution that is not includible in gross income; and
- D. The portion of any distribution made on or after January 1, 2002, which is attributable to a hardship distribution described in Code Section 401(k)(2)(B)(i)(IV).

**EMPLOYEE** — Any person in the employ of the City whose services are compensated by the City, including officers of the City.

**EXEMPT EMPLOYEE** or **EXEMPT MEMBER** — Any general member who is not a member of a bargaining unit.

**FINAL AVERAGE COMPENSATION** — The average of the highest annual compensation received by a member during any period of three consecutive years of his or her credited service contained within his or her 10 years of credited service immediately preceding the date his or her employment with the City last terminated. If the member

§ 2-224 has fewer than three years of credited service, his or her final average compensation shall be the average of the annual rates of compensation for his or her total period of credited service. § 2-224

FINAL COMPENSATION — A member's annual rate of compensation at the time his or her employment with the City last terminated.

GENERAL MEMBER — Any member except a public safety member.

GENERAL MEMBER ADMINISTRATOR — Any general member who is a City Commission appointee (City Manager, City Attorney, City Clerk and City Internal Auditor), the Chief Operating Officer, Deputy City Manager or Assistant City Manager who is an exempt employee. For purposes of this article, said administrator will be treated as if a general member except as otherwise noted. **[Added 9-8-2020 by Ord. No. 2015; amended 1-3-2023 by Ord. No. 2060]**

INVESTMENT COMMITTEE — The Investment Committee established in § 2-252.1 et seq.

MEMBER — Any employee who is included in the membership of the retirement system.

PENSION — An annual amount, derived from money provided by the City, payable in equal monthly installments throughout the future life of a person, or for a temporary period, as provided in this article.

PENSION RESERVE — The present value of all future payments to be made on account of any pension. A pension reserve shall be computed upon the basis of such mortality and other experience tables, and regular interest, as the Board shall from time to time adopt.

PLAN YEAR — The calendar year.

PUBLIC SAFETY ADMINISTRATOR — Any member who works within the Public Safety Administration and who is both sworn and exempt. For purposes of this article, said Administrator will be treated as if a Public Safety member except as otherwise noted.

PUBLIC SAFETY MEMBER — Any employee in the Public Safety Department of the City holding the rank of patrol officer, including probationary patrol officer, or higher rank; and, in the case of a fire fighter, any employee in the Fire Department of the City holding the rank of fire fighter, including probationary fire fighter, or higher rank; and including any Public Safety officer employed in the Public Safety Department. The term "Public Safety member" shall mean any person employed by Public Safety, including probationary members, holding the rank of sworn officer, but shall not include:

- A. Any person who is privately employed as a Public Safety member; nor
- B. Any person who is temporarily employed as a Public Safety member; nor
- C. Any civilian employee in the Public Safety Department.

REGULAR INTEREST — Such rate or rates of interest per annum, compounded annually, as the City Commission shall from time to time adopt.

RETIRANT — Any member who retires with a retirement allowance payable by the retirement system.

RETIREMENT — A member's severance from the employ of the City with a retirement allowance payable by the retirement system.

RETIREMENT ALLOWANCE — The sum or the annuity and pension payable to a retirant or beneficiary. In determining a retirant's or beneficiary's retirement allowance, the retirement system shall apply the actuarial assumptions that are set forth in Appendix A,<sup>24</sup> which is attached hereto.

RETIREMENT SYSTEM or SYSTEM — The City of Kalamazoo Employees Retirement System.

SERVICE — Personal service rendered to the City by an employee of the City. Service shall include time off work due to a disability which, if permanent, would qualify the individual for a duty disability retirement allowance

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24. Editor's Note: Appendix A is included at the end of this chapter.

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under § 2-243B.

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**TRUST FUND** — All assets possessed by the retirement system, including those attributed to the pension reserve fund, the retirement reserve fund, the annuity savings fund and the income fund, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights. Any forfeitures shall be included in the trust fund and shall not be applied to increase the benefits any member would otherwise receive under the retirement system. The trust fund shall be held and invested in accordance with § 2-252.1.

**USERRA** — The Uniformed Services Employment and Reemployment Rights Act of 1994, as amended from time to time.

**VOLUNTARY RETIREMENT AGE** — **[Amended 6-29-2009 by Ord. No. 1855; 10-4-2010 by Ord. No. 1874; 5-7-2018 by Ord. No. 1963]**

A. For a general member, shall be age 55 years, provided he or she has 15 or more years of credited service. For each year past age 55, the required number of years of credited service shall be reduced by one year. This shall be considered a reduced benefit as outlined in § 2-237B until: **[Amended 5-20-2019 by Ord. No. 1986; 9-8-2020 by Ord. No. 2015]**

- (1) For NBU members, the employee reaches the age of 62 and has five years of credited service;
- (2) For KMEA members hired prior to January 1, 2009, the employee reaches the age of 62 and has eight years of credited service;
- (3) For KMEA members hired on or after January 1, 2009, the employee reaches the age of 62 and has 10 years of credited service;
- (4) For AFSCME members hired prior to October 3, 2016, the employee reaches the age of 62 and has nine years of credited service;
- (5) For AFSCME members hired after October 2, 2016, the employee reaches the age of 62 and has 10 years of credited service;
- (6) For AFSCME members who retire on or after October 1, 1990, the employee reaches the age of 60 and has 20 years of credited service.

The items in Subsection A(1) through (6) are considered full benefits not subject to reduction under § 2-237B.

- B. Beginning January 1, 1984, "voluntary retirement age" for a Public Safety member shall be after 25 years of credited service, or age 50 with 10 years of credited service, whichever occurs first.
- C. Subject to the maximum benefits provisions set forth below, any member who continues in the employ of the City beyond his or her voluntary retirement age shall continue to accrue benefits under the retirement system; provided, however, that in the event that the City reemploys any member who has retired after reaching his or her voluntary retirement age and has commenced receiving a retirement allowance, such reemployment shall not cause said retirement allowance to be increased or altered in any way, nor shall such reemployment create for such member any accrual of any additional benefits under the retirement system.
- D. Subject to the terms of § 2-237, the amount of the retirement allowance to which a member may be entitled upon his or her voluntary retirement may be reduced.

**WORKER'S COMPENSATION PERIOD** — The period a member is in receipt of weekly worker's compensation on account of a member's disability or death arising out of and in the course of the member's employment. If a member is paid a single sum in lieu of future worker's compensation, the worker's compensation period shall be the period, if any, the member was in receipt of weekly worker's compensation, plus the period arrived at by dividing the single sum by the member's weekly worker's compensation award.

- A. The power to administer, manage and operate the retirement system, and to construe and make effective the provisions of this article, the plan, applicable state and federal statutes, provisions of the City Commission-approved collective bargaining agreements and employment agreements, and provisions of employment agreements authorized by the City Manager that expressly relate to the retirement system, is vested in a Board of Trustees, subject to such powers as are retained by the City Commission, or placed in the Investment Committee pursuant to § 2-252.1 et seq. Employment agreements authorized by the City Manager, as that phrase is used in this subsection, shall apply only to employment agreements for the positions of Deputy and Assistant City Manager, shall be limited to provisions regarding eligibility for an unreduced pension, and shall be available only to an employee in those positions whose years of service as a City employee, when combined with the employee's age, total at least 70 at the time the employment agreement is executed. The City Manager shall have the authority granted by this subsection until June 1, 2009.
- B. The Board of Trustees shall consist of five trustees, as follows:
- (1) A City Commissioner to be selected by the Commission to serve at the pleasure of the Commission.
  - (2) The City Manager.
  - (3) A citizen who is not a member, retiree, or beneficiary of the retirement system, and holds no other City position, to be appointed by the City Commission.
  - (4) A Public Safety member to be elected by the Public Safety members.
  - (5) A general member to be elected by the general members.
- C. The elections of the Public Safety member trustee and the general member trustee shall be held under such rules and regulations as the Board shall from time to time adopt.
- D. The term of office of the appointed citizen trustee, the Public Safety member trustee and the general member trustee shall be three years, one such term to expire annually.
- E. Each trustee shall, before assuming the duties of trustee, qualify by taking an oath of office to be administered by the City Clerk. The trustee shall serve without additional compensation for his or her services as trustee.
- F. In the event a trustee, except the appointed citizen trustee, ceases to be employed by the City, or if any trustee fails to attend three consecutive regularly scheduled meetings of the Board, unless in each case excused for cause by the remaining trustees, his or her office of trustee shall be deemed to be vacated. If a vacancy occurs in the office of trustee, the vacancy shall be filled, within 60 days from and after the date the vacancy occurred, for the unexpired portion of the term in the same manner as the office was previously filled. The City Commission from time to time may appoint a person to temporarily replace a trustee on an interim basis for reasons such as medical emergency or other need, and the person filling such a position on an interim basis shall serve on the Board of Trustees until the person who is on leave of absence is able to return to duties as a member of the Board of Trustees. The term of office of the interim trustee shall coincide with the term of office of the trustee temporarily replaced, and in no event shall the interim trustee serve in excess of 90 days from and after the date the City Commission appoints such interim trustee, unless the City Commission extends the term of such interim trustee beyond 90 days.
- G. The Board shall hold meetings regularly, at least quarterly, and shall designate the time and place thereof. Three trustees shall constitute a quorum at any meeting of the Board. Each trustee shall be entitled to one vote on each question before the Board, and at least three concurring votes shall be necessary for a decision by the Board at any of its meetings. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the Board shall be public.

**§ 2-226. Officers of Board of Trustees.**

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- A. The Board of Trustees shall elect from its own number a chairperson and chairperson pro tem.
- B. The Finance Director shall serve as secretary to the Board and shall be the administrative officer of the retirement system.
- C. The City Treasurer, or his or her designee, shall be treasurer of the retirement system and the custodian of its assets.
- D. The City Attorney shall be the legal advisor to the Board.
- E. The Board shall appoint as medical director a physician who is not eligible to membership in the retirement system. He or she shall be directly responsible to and shall hold office at the pleasure of the Board. He or she shall arrange for and pass upon all medical examinations required under this article; he or she shall investigate all essential statements and certificates of a medical nature furnished by or on behalf of a member, retirant or beneficiary in connection with a claim for disability or death in line of duty benefits; and he or she shall report in writing to the Board his or her conclusions on medical matters referred to him or her by the Board.
- F. The compensation for services required for the proper operation of the retirement system shall be fixed by the Board subject to the approval of the City Commission.
- G. The Board shall recommend, jointly with the Investment Committee, the actuary for the system to the City Commission for its approval.

**§ 2-227. Composition of membership of retirement system.**

- A. The membership of the retirement system shall include all persons who are in the employ of the City and all persons who become employed by the City except as provided in Subsection B of this section.
- B. The membership of the retirement system shall not include:
- (1) Any person whose services to the City are compensated on a fee or contractual basis; nor
  - (2) Any person employed to direct traffic at schools; nor
  - (3) Any person, other than a person who is a member of the KMEA, who becomes employed by the City after June 30, 1967, in a position normally requiring less than 1,040 hours of work in a calendar year; nor
  - (4) The medical director and the actuary; nor
  - (5) (Reserved)<sup>25</sup>
  - (6) The City Manager or other City Commission appointee, if he or she exempts himself or herself from membership in the system. His or her past contributions, together with accrued interest, would then be paid into the program established by the International City Management Association Retirement Corporation instead of being paid to or held by the City of Kalamazoo Employees Retirement System. No contribution on behalf of the City Manager or other appointee who makes such choice shall thereafter be made to the retirement system. Neither he nor she nor any person claiming on his or her behalf or account shall have any right, title, benefit or interest in said system or the funds thereof. The system shall owe no duty to such person or persons; nor
  - (7) Effective on and after January 1, 1999, the district court staff and judges of the 9th District Court, unless such person, prior to that date elected to have his or her contributions remain in the system.
- C. In any case of doubt as to the membership status of any person, the Board shall decide the question.

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25. Editor's Note: Former Subsection B(5), regarding retirants reemployed by the City, was repealed 6-29-2009 by Ord. No. 1855.

**§ 2-228. Termination of membership; buy-back of credited service.**

- A. Except as otherwise provided in this article, members who leave the employ of the City for any reason except retirement or death shall thereupon cease to be members and their credited service at that time shall be forfeited. In the event of reemployment by the City, such individuals shall again become members. Such employees shall have the option of having their credited service restored in full, provided they return to the annuity savings fund the amount, if any, withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment.
- B. In the event any member, or part-time employee who, full-time, would be a member, leaves the employment of the City to provide data processing services to the City, and said member or employee returns to City employment immediately upon leaving the employment of said private entity, and he or she has again become a member pursuant to the subsection above, he or she may also receive credited service for the time spent with said private entity as long as his or her employment with said private entity has been full-time and continuous since leaving the employment of the City, and he or she pays to the retirement system the contributions he or she would have made had he or she remained or been a member of the system, based on the actual salary received from the private entity during this time period.
- C. Said payments shall commence within one year of reemployment and shall be completed within a five-year period from the date of rehiring. If repayment is not completed within the five-year period, any amounts paid are to be refunded, and credit for pension benefits will be computed from the most current date of employment. Current employees shall have one year from the effective date of this section, as amended, to start repayment, and completion shall be within the five-year time limit. Upon a member's retirement or death, he shall thereupon cease to be a member.
- D. However, a person retired from the system may "buy back" prior service credits to increase his or her pension:
- (1) When the retirant would have been eligible to buy back prior service time credit(s), if the retirant were an active (contributing, nonretired) member of the system; and
  - (2) When such credit(s) was(were) not available for buy back prior to the date of his or her retirement; and
  - (3) When election, payment and completion shall be as follows:
    - (a) Said retirant shall elect to buy back such prior service credit(s) within one year of the date the retirant is or becomes eligible to buy back such time credit(s);
    - (b) Calculation of prior service credits:
      - [1] Per Subsection D(3)(a) above for refunded prior service credit; and/or
      - [2] Such retroactive contributions shall be made together with "regular interest" or a Board-approved actuarial formula calculated to the date of repayment; and
  - (4) Applications for repurchase of prior City service credit(s) shall be made within one year from the date on which the retirant first becomes eligible to exercise the option to "buy back" prior City service credit(s);
  - (5) From the date on which the retirant's application to repurchase prior City service is approved by the Board, the retirant will have one additional year to actually repurchase such prior service by lump sum repayment, unless an extended period is approved by the Board;
  - (6) An increased pension will not be put into effect for any retirant until the repayment of previously refunded employee pension contributions, and regular interest, is complete.

**§ 2-229. Service credit.**



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- A. The service rendered by a member shall be credited him or her by the Board in accordance with such rules and regulations as the Board shall from time to time adopt, consistent with the provisions of this article. In no case shall fewer than 10 days of service rendered by a member in any calendar month be credited him or her as a month of service, nor shall fewer than nine months of service rendered by him or her in any calendar year be credited as a year of service, nor shall more than one year of service be credited any member for all service rendered by him or her in any calendar year.
- B. In the event a member withdrew his or her contributions from the retirement annuity and pension fund of the retirement system established by Ordinance No. 188, or his or her accumulated contributions from the annuity savings fund of the retirement system provided for in this article, and has not returned same to the applicable fund, he or she shall not be credited with service rendered prior to the date he or she last withdrew his or her contributions or accumulated contributions until he or she returns to the annuity savings fund, together with regular interest from the date of withdrawal to the date of repayment, as provided in § 2-228 of this article.

**§ 2-230. Age and service requirements in event of split service.**

- A. In the event a member has rendered service both as a general member and as a Public Safety member, the age and service requirements applicable to that member at the time of retirement shall be determined by the age and service requirements of the unit from which the member is retiring. The member's total service shall be used to determine whether or not the member meets the age and service requirements of the unit from which he is retiring.
- B. For purposes of computing the retirement allowance of a member who has rendered service in both of the above units, § 2-236 shall apply only to the member's actual service as a Public Safety member; and § 2-237 shall apply only to the member's actual service as a general member. The retirement allowance shall be the sum of the two separate computations. The computations for each unit shall be based on the member's actual final average compensation.
- C. Notwithstanding the above, a member employed by Public Safety who is a member of the Kalamazoo Police Officers' Association prior to 1999 may elect to convert his or her prior non-Public Safety time into Public Safety time (for purposes of credited service) so long as he or she first pays the difference between the contribution rate that was paid and the contribution rate that would have been paid had the non-Public Safety time actually been for Public Safety.

**§ 2-231. Military service credit.**

- A. In the event any member, while employed by the City, was called to or entered any armed service of the United States and has been or shall be on active duty in such armed service, said member shall have such armed service actually required credited as City service; provided that:
- (1) He or she is reemployed by the City within one year from and after the date of termination of such armed service actually required of him or her.
  - (2) He or she returns to the annuity savings fund the amount he or she might have withdrawn therefrom at the time he or she entered or while in such armed service together with regular interest from the date of withdrawal to the date of repayment. Said payments shall commence within one year of reemployment and shall be completed within five years from the date of rehiring. If repayment is not completed within the five-year period, any amounts paid are to be refunded, and credit for pension benefits will be computed from the most current date of employment.
  - (3) In no case shall more than six years of City service be credited for all such armed service rendered by said member. In any case of doubt as to the period to be so credited any member, the Board shall have the final power to determine such period. During the period of such armed service and until reemployment by the City, said member's contributions to the retirement system shall be suspended; and

- § 2-231 any balance standing to his or her credit in the annuity savings fund shall be accumulated at regular interest. § 2-231
- B. In the event any member, prior to being employed by the City, was called to or entered any armed service of the United States and who has been on active duty in such armed service, said member may have his or her service credit increased for not more than three years' active military service; provided that:
- (1) The member pays to the retirement system a percent of the member's annual rate of pay in effect at the time the member applies for this option, multiplied by the years, or fraction thereof, of service that the member elects to purchase pursuant to this section. The percent to be used in said calculation shall be the same as the percent in effect used to determine that member's contribution to the annuity fund, as described in § 2-248 and elsewhere.
  - (2) Time of payment. Said payment shall commence within one year from the date of hire and shall be completed within five years. If payment is not completed within the five-year period, any amounts paid are to be refunded, and no credit for military service pension benefits will be given.
  - (3) The fact that payment is made into the retirement system during a given year for the purposes of Subsection B(1) above shall have no effect in determining final average compensation.
  - (4) In the event any member making payments under Subsection B(1) above should retire or die prior to making the full payments required, the member or member's beneficiary under the pension ordinance shall have the option of either making a lump-sum payment in full prior to receiving any pension benefits in order to obtain the additional benefits under this section, or receiving military service credit prorated based upon the amount of payments made until death or retirement.
  - (5) At any time prior to retirement, a member may withdraw all or part of his or her military service credit payments from the retirement system. If a member makes such a withdrawal, the military service credit will be reduced pro rata, based upon the amount of payments withdrawn.
- C. Active duty shall include all service and training while on active duty but shall not include National Guard or Reserve monthly or annual training.
- D. Current employees must commence payment no later than January 2, 1987, to obtain credit for military service under this section of the Kalamazoo City Code. However, the preceding sentence shall not apply to any military service covered by USERRA. Payment shall be completed within five years of commencement of payment.
- E. In no event shall credit be given for a period of active duty if the member otherwise receives credit for that period as City service.
- F. Effective December 12, 1994, the provisions herein shall be interpreted and applied as required by USERRA in accordance with Code Section 414(u) and the regulations and other guidance thereunder.
- G. Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in a state or local retirement or pension system are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. In any event, a deceased member's period of qualified military service must be counted for vesting purposes. Beginning January 1, 2009, to the extent required by Section 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments (as defined under Section 3401(h)(2) of the Internal Revenue Code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Section 415(c) of the Internal Revenue Code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. **[Added 11-19-2012 by Ord. No. 1905]**

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**§ 2-232. Buyback of unpaid leave. [Amended 9-8-2020 by Ord. No. 2015]**

- A. A public safety member who, on or after January 1, 1999, is absent from work for an entire pay period during which no pay from the City is paid from which pension contributions are deducted may buy back all or a portion of said time so that it becomes credited service. In the absence of said buyback, said time shall not become credited service. If the member elects to buy back such time, the amount to be paid by the member shall be equal to that which the member would have had deducted from his or her pay had he or she been receiving pay. Said payment shall commence within one year of the member's return and shall be completed within five years of said return. If repayment for the amount of time sought to be credited is not fully paid within said five years, the amount paid shall be refunded, and no credited service shall be given.
- B. Members with a reduction of hours in 2020 due to the City's participation in the State of Michigan work share program have the option of making up their contribution based on regular wages of 80 hours per pay period if the period of the City's participation in the State of Michigan work share program occurred within the last three years of the member's employment with the City. This contribution will be calculated based on the member's normal contribution percentage multiplied by 80 then reduced by contributions made for the period. Final average compensation for members electing this option will include this time period to be calculated using full normal wages based on 80 hours per pay period. This election and related payment must be made prior to retirement effective date.

**§ 2-233. Service accounts.**

The Board shall credit each member's service account with the number of years and months of service to which he or she is entitled.

**§ 2-234. Voluntary retirement.**

- A. Any member who has attained or attains his or her voluntary retirement age may retire upon his or her written application filed with the Board setting at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he or she desires to be retired.
- B. Upon his or her retirement, a Public Safety member shall receive a retirement allowance as provided in § 2-236, and a general member shall receive a retirement allowance as provided in § 2-237.

**§ 2-235. (Reserved)****§ 2-236. Retirement allowance for Public Safety members; early retirement.**

- A. Effective January 1, 2003, upon the retirement of a Public Safety member who has 25 years or more of credited service or who is at least 50 years of age with 10 years of credited service, a voluntary retirement benefit shall be provided which shall consist of a straight life retirement allowance (or the comparable option as provided in § 2-240 in lieu of said straight life retirement allowance) consisting of an annuity which shall be the actuarial equivalent of the member's accumulated contributions and a pension which, when added to the annuity, will provide a straight life retirement allowance equal to the sum of 2.7% times final average compensation times years and fraction thereof of credited service with a maximum benefit equal to 70.2% of final average compensation. For those Public Safety members who are less than 50 years old with at least 20 years but fewer than 25 years of credited service, the retirement allowance shall be based upon 2% of final average compensation times years of service. Those Public Safety members whose employment ends after they are vested but prior to achieving 20 years of credited service may receive a retirement allowance based upon a two-percent multiplier; such allowance shall be deferred and shall not be payable until such time as the member qualifies for a voluntary retirement benefit had he or she remained employed as a Public Safety member.
- B. Effective January 1, 1995, a post-retirement adjustment of 2% in January of each year, compounded annually,

§ 2-236 shall be provided for those Public Safety members who retire on or after January 1, 1995. Said adjustment shall be implemented the first January following actual retirement date but will be available only to those Public Safety members who retire with at least 25 years of credited service. § 2-237

- C. Upon the death of a Public Safety retirant who retired after June 30, 1972, and elected to receive his or her retirement allowance as a straight life retirement allowance, his or her surviving spouse, to whom he or she was married at both the date of his or her retirement and the date of his or her death, shall receive a retirement allowance equal to one-half of the retirant's straight life retirement allowance. A spouse's retirement allowance shall terminate upon the spouse's remarriage or death.
- D. The foregoing benefit levels are subject to the limits set forth in § 2-263.

**§ 2-237. Retirement allowance for general members and general member administrators; multipliers; early retirement reduction. [Amended 12-18-2017 by Ord. No. 1952; 9-8-2020 by Ord. No. 2015]**

- A. Upon his or her retirement as provided in this article, a general member shall receive a straight life retirement allowance, and he or she shall have the right to elect to receive his or her retirement allowance under an option provided in § 2-240 in lieu of a straight life retirement allowance. His or her straight life retirement allowance shall consist of the following benefits:
  - (1) An annuity which shall be the actuarial equivalent of his or her accumulated contributions standing to his or her credit in the annuity savings fund at the time of his or her retirement; and
  - (2) A pension that, when added to his or her annuity, will provide a straight life retirement allowance equal to the number of years and fraction of a year of his or her credited service multiplied by the percents set forth below of his or her final average compensation:
    - (a) For a general member represented by the Kalamazoo Municipal Employees Association who retires in 2006, the multiplier shall be 1.9% of his or her final average compensation, but on or after January 1, 2007, the multiplier shall be 2% of his or her final average compensation; on or after January 1, 2008, the multiplier shall be 2.1% of his or her final average compensation; further, a post-retirement adjustment of 1.5%, compounded annually, shall be provided to those KMEA members who retire on or after March 13, 2000, so long as said retirant has been retired for one year (if he or she retires at or after age 63) or upon the retirant's 64th birthday (if he or she retires prior to age 63); said post-retirement adjustment shall not apply to deferred retirements. Effective January 1, 2002, the PRA described above shall increase from 1.5% to 2.0% when the retiree reaches the age of 75.
    - (b) For an exempt employee who retires on or after January 1, 1999, the multiplier shall be 2.3% of his or her final average compensation. A general member administrator who retires on or after October 1, 2020, shall be entitled to a 2.7% multiplier of their final average compensation and shall receive a post-retirement adjustment of 2% in January of each year, which is compounded annually; a general member administrator shall not be eligible for a post-retirement adjustment of 2% if he or she takes a deferred retirement.
    - (c) For a member represented by AFSCME who retires on or after October 2, 2005, the multiplier shall be 1.9% of his or her final average compensation, but if on or after October 2, 2006, the multiplier shall be 2% of his or her final average compensation, but if on or after October 2, 2007, the multiplier shall be 2.1% of his or her final average compensation; further, a post-retirement allowance of 1%, commencing one year after the member's date of retirement and compounded annually thereafter, shall be provided to those AFSCME members who retire on or after March 1, 2000; after the retirant reaches age 75, said annual adjustment shall be 2%, compounded annually. The retirement adjustment shall not, however, apply to those who retire pursuant to a deferred and/or a reduced retirement;

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- (d) For a member represented by the ATU, the multiplier shall be 2.1% of his or her final average compensation; further, a post-retirement allowance of 1%, commencing one year after the member's date of retirement and compounded annually thereafter, shall be provided to those ATU members who retire on or after March 1, 2000; after the retirant reaches age 75, said annual adjustment shall be 2%, compounded annually. The retirement adjustment shall not, however, apply to those who retire pursuant to a deferred retirement; and
  - (e) For a member employed in a civilian, nonsworn capacity at the Kalamazoo Department of Public Safety, and who is in a bargaining unit represented by the Kalamazoo Police Officers Association, who retires in 2006, the multiplier shall be 1.7%, but on and after January 1, 2007, the multiplier shall be 2.1%.
- B. Except as provided in Subsection C below, in the event a general member who has fewer than 25 years of credited service retires before his or her attainment of the age of 62, the pension portion of his or her retirement allowance provided in Subsection A of this section shall be reduced 0.4% multiplied by the number of months and fraction of a month contained in the period from the date of his or her retirement to the date he or she would attain the age of 62. In the event a general member who has 25 or more years of credited service retires on or after January 1, 1974, and before his or her attainment of the age of 57, the pension portion of his or her retirement allowance provided in Subsection A of this section shall be reduced 0.4% multiplied by the number of months and fraction of a month contained in the period from the date of his or her retirement to the date he or she would have attained the age of 57.
  - C. The pension of a general member represented by AFSCME who retires on or after October 1, 1990, shall not be subject to reduction under Subsection B if the member at the time of retirement is at least 60 years of age and has at least 20 years of credited service in a position or positions represented by AFSCME.
  - D. The foregoing benefit levels are subject to the limits set forth in § 2-263.
  - E. The retirement allowance received by an exempt member who retires on or after June 1, 2006, shall be increased by 1.5% post-retirement allowance, compounded annually, commencing January 1 after the member has been retired for one full year, and on every January 1 thereafter; this increase shall be available, however, only to those members whose retirement allowance has not been, nor will be, deferred and who execute and submit, no later than May 30, 2006, the required form in which the member agrees to have his or her contribution to the annuity fund increased, for the balance of the member's employment with the City, by 2%, above and beyond that otherwise required by § 2-248, including as it may be amended from time to time.

**§ 2-237.1. One-time (2011) enhanced retirement option. [Added 10-31-2011 by Ord. No. 1886]**

- A. For the purpose of this section, "eligible members" is defined as being those members:
  - (1) Who by December 31, 2015, would either:
    - (a) Satisfy the age and credited service requirements so as to be then eligible to retire with a full (unreduced) retirement allowance; or
    - (b) Have 25 years of credited service, regardless of age; and
    - (c) In the case of Public Safety members only, be entitled to receive the 2.7% multiplier; and
  - (2) Who, before 5:00 p.m. January 3, 2012, declare an irrevocable intent to retire no later than January 2, 2014, pursuant to this section by signing the enhanced retirement election form and waiver of claims form to be created hereafter by the Human Resources Department.
- B. Eligible members shall receive the following:
  - (1) A retirement allowance, the calculation for which shall assume credited service through December 31,

- § 2-237.1 2015; if, however, the City determines that the last day of work for an eligible member who elects to participate is to be after December 31, 2012, the calculation shall assume credited service three years after that member's last day of work; § 2-239
- (2) A one-time retirement system lump sum payment equal to 1% of the member's final average compensation times his or her credited service (as such is determined by Subsection B(1) immediately above); and
  - (3) Payment, at the time of retirement, of any sums due to the member by virtue of existing collective bargaining agreements and/or existing City policy for accrued vacation and/or sick time, accrued as of the last day of work; in the case of Amalgamated Transit Union members, any sums due to a member by virtue of existing collective bargaining agreements for accrued leave time accrued as of the last day of work.
- C. The City shall determine the last day of work for each eligible member who elects to participate, which shall be no later than January 2, 2014.

**§ 2-238. Social security integration.**

According to such rules and regulations as the Board shall from time to time adopt, a general member who retires prior to his or her attainment of age 62 years may elect to have his or her straight life retirement allowance actuarially equated to provide an increased retirement allowance payable to his or her attainment of age 62 years and a reduced retirement allowance payable thereafter. His or her increased retirement allowance payable to his or her attainment of age 62 years shall approximate the sum of his or her estimated social security primary insurance amount. This section shall not apply to a member who elects Option A, B or C provided in § 2-240, or who retires under § 2-242.

**§ 2-239. Deferred retirement allowance.**

- A. In the event a Public Safety member who has 10 or more years of credited service leaves the employ of the City prior to his or her voluntary retirement age, for any reason except his or her retirement or death, he or she shall be entitled to a retirement allowance provided for in § 2-236A. In the event a general member has acquired the minimum number of years of credited service to satisfy the voluntary retirement age requirement and leaves the employ of the City prior to his or her voluntary retirement age, for any reason except his or her retirement or death, he or she shall be entitled to a retirement allowance provided for in § 2-237. In either case, his or her retirement allowance shall be computed according to § 2-236 or 2-237, as applicable, as the section was in effect at the time the member left City employment. The member's retirement allowance shall begin the first day of the calendar month next following the date his or her application for same is filed with the Board on or after his or her attainment of age 60 years if a general member, 55 years if a general member with 15 years of service, or 50 years if a Public Safety member; provided, however, effective January 1, 1984, any Public Safety member shall be eligible after 25 years of credited service or age 50 with 10 years of credited service, whichever occurs first. If he or she withdraws his or her accumulated contributions, he or she shall thereupon forfeit his or her right to a deferred retirement allowance. A member shall also forfeit his or her right to a deferred retirement allowance if said member dies before filing said application or, if such an application is filed, before the date designated as his or her retirement date. In the event of such a death, the member's accumulated contributions shall be paid to his or her beneficiary or estate. Except as otherwise provided in this article, the member shall not be given service credit for the period of his or her absence from City employment. [Amended 10-4-2010 by Ord. No. 1874]
- B. Should any member, with five or more years of credited service, who has not qualified for a deferred retirement allowance provided in Subsection A of this section, be transferred by the City to the payroll of the State of Michigan or any of its political subdivisions, service rendered by him or her in the employ of the state or any of its political subdivisions subsequent to his or her transfer shall be regarded as City service for the sole and exclusive purpose only of qualifying for a deferred retirement allowance provided in Subsection A

§ 2-239 of this section and in determining final average compensation. The member's retirement allowance shall be computed according to § 2-236 or 2-237, as applicable at the time of his or her last termination of membership, based upon his or her credited service rendered in the employ of the City. The member's retirement allowance shall begin 30 days after the date his or her application for same is filed with the Board on or after the date he or she leaves the employ of the state or any of its political subdivisions to whose payroll he or she was transferred, or attains age 60 years, whichever is later. In the event the member withdraws his or her accumulated contributions, he or she shall thereupon forfeit his or her entitlement to a retirement allowance provided in this subsection. If the member withdrew his or her accumulated contributions prior to February 1, 1958, he or she shall have the right to repay the amount withdrawn, together with regular interest from the date of withdrawal to the date of repayment, subject to the approval of the Board.

C. Any deferred retirement allowance payable hereunder shall satisfy the minimum distribution requirements set forth in § 2-240C.

D. Election to enter DROP. **[Added 4-2-2018 by Ord. No. 1959]**

(1) Effective April 12, 2018, a Public Safety Administrator who meets the relevant provisions for an unreduced retirement allowance under Subsection A or B of this section, and who is authorized by the City Manager, with the approval of the City Commission, to participate in this deferred retirement option plan ("DROP"), may elect to enter the DROP.

(2) A member who elects to enter the DROP must irrevocably agree to the following:

- (a) The member will remain in active service with the City until his or her specified DROP retirement date.
- (b) While in DROP, the member will not make the required member contributions to the plan.
- (c) The member must elect a DROP retirement date not less than 12 months and not more than 96 months after the member's DROP entry date.
- (d) The member may make an election to enter DROP only once in the member's lifetime.
- (e) The member may not remain in DROP after the date the member reaches any mandatory retirement age that may apply to the member.

E. Termination of employment; determination of benefit. **[Added 4-2-2018 by Ord. No. 1959]**

(1) The retirement benefit for a member who enters the DROP and retires on the member's DROP retirement date is determined under this Subsection E rather than under the provisions of Subsections A, B, C or D of this section.

(2) Upon termination of employment, including, but not limited to, early DROP termination with cause, early DROP termination without cause, or disability, a member will receive the following retirement benefit:

- (a) The member's DROP account benefit, which is the member's DROP account balance composed of a) an amount equal to 100% of the monthly retirement allowance the member would have received if he or she had retired as of the date of entry into the DROP and any applicable post-retirement allowance, and b) an annual two-percent interest credit; plus
- (b) The member's monthly retirement benefit, based on the basic monthly retirement benefit, computed as of the date of entry into the DROP.

(3) A member who enters DROP shall be fully vested at all times in the member's DROP account balance.

F. Exit from plan. **[Added 4-2-2018 by Ord. No. 1959]**

- § 2-239 (1) A member who enters the DROP established by this § 2-239 shall exit the DROP at the earliest of: § 2-239.1
- (a) The member's DROP retirement date;
  - (b) Ninety-six months after the member's DROP entry date;
  - (c) The mandatory retirement age applicable to the member, if any; or
  - (d) The date the member retires because of a disability as provided under § 2-242.
- (2) Upon the member's DROP exit for any reason, the member shall not be entitled to receive additional compensation for any unused holiday pay, sick time pay, or vacation pay accrued while in the DROP.
- G. If a member dies prior to the member's DROP exit, the member's beneficiary shall be entitled to the member's DROP account benefit as of the date of the member's death. This lump sum benefit shall be in addition to any benefit provided under §§ 2-241 and 2-244 of the Kalamazoo City Code. **[Added 4-2-2018 by Ord. No. 1959]**

**§ 2-239.1. Public Safety deferred retirement option plan program. [Added 1-3-2023 by Ord. No. 2059]**

- A. KPSOA and KPSA Public Safety members who obtain 25 years or more of credited service under § 2-236 on or after May 1, 2022, through December 31, 2026, may elect to participate in a deferred retirement option plan (DROP). Once the employee elects to participate in the DROP program, the employee's participation in the DROP program is irrevocable if they are accepted by the City to be a DROP participant. The employee is solely responsible for any federal, state, or local tax due because of their participation in the DROP. Participation in the DROP is not guaranteed. A participant must be in good standing with the City and the City may consider staffing level needs and the employee's disciplinary and performance review histories in determining whether to accept the employee into the DROP program. A participant must indicate on the application for participation in the DROP program the number of whole years that the employee wants to participate in the DROP, up to a maximum of three years. As a condition of participation, the employee agrees to retire at the conclusion of their participation in the DROP program. A participant who has elected to participate for one or two years may request, which is not required to be granted by the City, an extension in whole years at least 90 days' prior to the employee's anticipated DROP end date. Example: A participant who completes their first year on February 28, 2023, must request an extension by November 30, 2022. Participation in the DROP does not guarantee the employee continued employment with the City. Except as otherwise provided in this section, an employee who is accepted to participate in the DROP will remain an active City employee but is only eligible to receive any applicable wage changes and benefits provided in the collective bargaining agreement for the employee in effect at the time the employee becomes a DROP participant and will be subject to the policies and procedures of the City of Kalamazoo and the Department of Public Safety in the same manner as if they had not elected to participate in the DROP program. The amount of credited service, multiplier, and final average compensation of a DROP participant will be determined and fixed at the date of the employee's entry into the DROP program. Any increase in benefits and the additional years of employment service with the City due to DROP participation will not be factored into the employee's pension benefit once the employee begins to receive DROP program benefits.
- B. A DROP account will be created for each DROP program participant and maintained in the pension fund. The participant's account will accrue a guaranteed 2% annual rate of return. Any additional return from interest above 2% or investment growth from the participant's DROP account will remain in the pension fund. Participants will receive a monthly retirement benefit as if they had retired on the day prior to becoming a DROP participant that will be deposited in the participant's DROP account. The monthly retirement benefit will include any applicable post-retirement annual adjustment as defined in § 2-237 of this article. A DROP participant will not receive a monthly retirement benefit outside of the DROP account, as calculated pursuant to this retirement system article, until termination of their DROP participation and commencement of retirement. A DROP participant shall not have any claim to any funds in their DROP account until separation from City employment.



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- C. If the participant decides to voluntarily leave the DROP program or is terminated from employment with the City while a DROP participant, the employee will receive a pro rata payout of the accumulated DROP account based on the date of separation. Example: A participant who in the ninth month of a one-year DROP commitment chooses to leave would be eligible for 75% of the accumulated DROP funds on the date of separation. If a DROP participant, due to an injury or illness, is unable to perform their duties for more than six weeks in any three-month period while in the DROP, the participant will be removed from the DROP and will receive the amount of their accumulated DROP benefit as determined on the date of their separation from City employment.
- D. Within the 30 days' prior to separation from employment with the City due to the conclusion of the employee's participation in the DROP program, the participant must elect one of the following options for the disbursement of the DROP account:
- (1) Total lump sum distribution; or
  - (2) Lump sum direct rollover to another qualified plan as allowed by federal law and subject to the procedures of the retirement system. Any funds not eligible to be rolled over to a qualified plan will be distributed to the employee.
- E. If a DROP participant or former DROP participant dies before removing all funds from their DROP account, the former DROP participant's designated beneficiary will receive any remaining balances. If the former DROP participant has not named a beneficiary for their DROP account, the amount in the DROP account shall be paid to the beneficiary of the former DROP participant's retirement allowance. If the former DROP participant has not named a beneficiary to their retirement allowance, the balance in the former DROP participant's account shall be paid to the former DROP participant's estate.
- F. Special provisions. Notwithstanding any other contractual provision, the following special provisions apply to a DROP participant:
- (1) Sick leave.
    - (a) Upon entry into the DROP, a participant's sick leave balance will be converted to 50% of the total sick leave balance. Example: A participant's sick leave balance of 1,000 hours will be converted to 500 hours of sick leave.
    - (b) A participant may elect to carry over up to 252 hours (forty-two-hour employee) of converted sick leave for use during the DROP. Any converted sick leave not carried over will be cashed out. A participant will continue to accrue sick leave as provided in the collective bargaining agreement for the employee in effect at the time the employee becomes a DROP participant. Upon separation from City employment, a participant may cash out unused sick leave up to the amount originally carried over at the participants current pay rate. Example: A participant with 500 hours of converted sick leave elects to carry over 200 hours of converted sick leave. The participant will be paid out the remaining 300 hours of converted sick leave at the participant's then-current pay rate. At separation, the participant has 240 hours of sick leave (200 hours carry over plus 40 hours of accrued sick leave). The participant will be paid out 200 hours of converted sick leave at the participant's then-current pay rate upon entering the DROP.
  - (2) Vacation time. A participant may carry into the DROP up to 180 hours (forty-two-hour employee) of vacation time. A participant's remaining vacation time will be cashed out upon date of entry into the DROP. A participant will continue to accrue vacation time as provided in the collective bargaining agreement for the employee in effect at the time the employee becomes a DROP participant. The participant will be limited to a maximum of 84 hours of vacation usage immediately preceding the date of separation from City employment. Any unused vacation time up to 180 hours (forty-two-hour employee) will be cashed out at the participant's then-current pay rate upon exiting the DROP and separating from City employment.

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- (3) Pension contribution. DROP participants will not make any pension contributions during their participation in the DROP program.
  - (4) Special pays. A participant will continue to receive all special pays (longevity pay, educational bonus, assignment bonus, food allowance, clothing allowance, and holiday pay) pursuant to the provisions of the collective bargaining agreement for the employee in effect at the time the employee becomes a DROP participant.
  - (5) Compensation time/COVID pandemic emergency leave time. A participant will be cashed out of all compensation time upon entry into the DROP. A participant may accrue a maximum 48 hours of compensatory time while a DROP participant. A participant will be paid for up to 48 hours of unused compensatory time upon separation at the participant's then-current pay rate upon entering the DROP. Any emergency leave time (ELT) accrued during the COVID-19 Level I operations (March through May 2020) will be carried over into the DROP; however this COVID-related ELT must be used by the employee before May 4, 2023, to avoid the ELT being waived and forfeited.
  - (6) Insurance. All insurance, benefits and contributions by the participants will remain in place as outlined by the collective bargaining agreement for the employee in effect at the time the employee becomes a DROP participant during the term of the DROP. All retirement benefits and premiums will correspond with the rate set forth by the collective bargaining agreement for the employee in effect at the time the employee becomes a DROP participant.
  - (7) Promotion. A participant is not eligible for promotion while in the DROP.
- G. All monthly payments following participation in the DROP are in lieu of and offset any wage loss claims under the Michigan Workers' Disability Compensation Act.<sup>26</sup> Any DROP lump sum payments will be an election of benefits disqualifying the participant from claims for workers' compensation wage loss benefits. It is the intention of this section that benefits under the DROP are controlled by the operation of § 2-245 of this chapter.

**§ 2-240. Retirement allowance options.**

- A. Prior to the date of his or her retirement, but not thereafter, a member may elect to receive his or her retirement allowance as a straight life retirement allowance payable throughout his or her life, or may elect to receive the actuarial equivalent, determined as of the date of his or her retirement, of his or her straight life retirement allowance in a reduced retirement allowance payable throughout his or her life, and nominate a beneficiary, in accordance with the provisions of the options set forth below. If a member does not elect an option prior to the date of his or her retirement, the member will be presumed to have elected to receive his or her retirement allowance as a straight life retirement allowance. A member electing or retirant receiving a straight life retirement allowance may designate a beneficiary. If the retirant dies before the aggregate amount of payments to him or her equals his or her accumulated contributions, the remainder produced by subtracting said payments from said contributions shall be paid to said beneficiary. If the beneficiary survives the retirant but dies before receiving payment, that payment shall be made to the beneficiary's estate. If the beneficiary does not so survive or if there is none designated, the above remainder shall be paid to the retirant's estate:
- (1) Option A: Cash Refund Annuity. Under Option A, formerly Option 2, if a retirant dies before he or she has received, in the annuity portions of his or her reduced retirement allowance, an aggregate amount equal to his or her accumulated contributions standing to his or her credit at the time of his or her retirement, the difference between his or her accumulated contributions and the aggregate amount of annuity payments received by him or her shall be paid to such person or persons as he or she shall have nominated by written designation duly executed and filed with the Board. If there is no such designated person surviving the retirant, such difference, if any, shall be paid to the retirant's estate; or

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26. Editor's Note: See MCLA § 418.101 et seq.

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- (2) Option B: 100% Survivor Allowance. Under Option B, formerly Option 3, upon the death of a retiree, his or her reduced allowance shall be continued throughout the life of and paid to such person or persons having an insurable interest in his or her life, as he or she shall have nominated by written designation duly executed and filed with the Board prior to the date of his or her retirement. Notwithstanding the foregoing, effective January 1, 2002, if the retiree's beneficiary is not his or her spouse, the survivor allowance percentage shall be adjusted as required to satisfy the limit under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2(c), based on the age differential between the retiree and the beneficiary.
  - (3) Option C: 50% Survivor Allowance.
    - (a) Under Option C, formerly Option 4, upon the death of a retiree, one-half of his or her reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his or her life, as he or she shall have nominated by written designation duly executed and filed with the Board prior to the date of his or her retirement.
    - (b) If a retiree who has elected Option B or Option C and his or her beneficiary under this § 2-240 die before the aggregate amount of payments under said option equals the retiree's accumulated contributions, the remainder, produced by subtracting said payments from said contributions, shall be paid as follows: If the beneficiary survived the retiree, the remainder shall be paid to the beneficiary's estate. If the beneficiary did not survive the retiree, the above remainder shall be paid to the retiree's estate.
  - (4) Option D: ten-year (120 months) Certain and Life Retirement Allowance. Under Option D, the retiree shall be paid a reduced retirement allowance for life with the provision that if the retiree's death occurs before 120 monthly payments have been made, the full reduced retirement allowance shall continue to be paid for the remainder of the 120 months to such person or persons having an insurable interest in his or her life, and in such shares as the retiree shall have designated in writing and filed with the Board. Notwithstanding the foregoing provisions of Option D, effective January 1, 2002, Option D will not be available if the retiree is older than 92 when the benefit commences.
  - (5) Option E. Fifteen-year (180 months) Certain and Life Retirement Allowance.
    - (a) Under Option E, the retiree shall be paid a reduced retirement allowance for life with the provision that if the retiree's death occurs before 180 monthly payments have been made, the full, reduced retirement allowance shall continue to be paid for the remainder of 180 months to such person or persons having an insurable interest in his or her life, and in such shares as the retiree shall have designated in writing and filed with the Board. Notwithstanding the foregoing provisions of Option E, effective January 1, 2002, Option E will not be available if the retiree is older than 84 when the benefit commences.
    - (b) Under Option D or Option E, if there is no designated person surviving the retiree, the then-present value of the remaining unpaid monthly payments shall be computed and paid to the estate of the retiree. If a designated person survives the retiree and dies before receiving all the installments payable under the option plan, there shall be paid to the estate of such person the then-present value of the remaining unpaid installments which would otherwise have been paid to such person.
  - (6) Option F. Under Option F, the retirement allowance shall be the same as under Option B for both the retiree and the beneficiary, except that:
    - (a) The retirement allowance shall be reduced by an additional amount, as required by actuarial considerations, so that in the event the retiree were to survive the beneficiary, the retiree would then be able to receive a straight life retirement allowance at no added cost to the system, based upon actuarial equivalence; and

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- (b) In the event that the beneficiary predeceases the retirant, the retirant's retirement allowance becomes a straight life retirement allowance.
- (7) Option G. Under Option G, the retirement allowance shall be the same as under Option C for both the retirant and the beneficiary, except that:
  - (a) The retirement allowance shall be reduced by an additional amount, as required by actuarial considerations, so that in the event the retirant were to survive the beneficiary the retirant would then be able to receive a straight life retirement allowance at no added cost to the system, based upon actuarial equivalence; and
  - (b) In the event that the beneficiary predeceases the retirant, the retirant's retirement allowance becomes a straight life retirement allowance.
- B. For the purposes of § 2-240 of the Kalamazoo City Code, the term "upon the death of the retirant" shall mean the first day of the month immediately following the month in which the retirant died.
- C. Minimum distribution requirements. General rules. Notwithstanding any provision of the retirement system to the contrary, effective January 1, 2002, any distribution under the retirement system shall be made in accordance with Code Section 401(a)(9) and the regulations established thereunder as they are amended and shall comply with the following rules:
  - (1) Time and manner of distribution. To the extent required by Code Section 401(a)(9) and the regulations promulgated thereunder, payment of the benefits of a member shall begin not later than the required beginning date, which, for purposes of this section, means April 1 of the calendar year following the later of (i) the calendar year in which the member reaches age 70 1/2, or (ii) the calendar year in which the member retires.
    - (a) Death of member before distributions begin.
      - [1] If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed, no later than as follows:
        - [a] If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70 1/2, if later.
        - [b] If the member's surviving spouse is not the member's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.
        - [c] If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.
        - [d] If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this Subsection C(1)(a), other than Subsection C(1)(a)[1], will apply as if the surviving spouse were the member.
      - [2] For purposes of this Subsection C(1)(a) and Subsection C(5), distributions are considered to begin on the member's required beginning date {or, if Subsection C(1)(a)[1][d] applies, the date distributions are required to begin to the surviving spouse under Subsection C(1)(a)}. If annuity payments irrevocably commence to the member before the member's required beginning date {or to the member's surviving spouse before the date distributions are required

to begin to the surviving spouse under Subsection C(1)(a)[1][a]}, the date distributions are considered to begin is the date distributions actually commence.

- (b) Form of distribution. No payment option may be selected by a member unless the amounts payable to the member are expected to be at least equal to the minimum distribution required under Code Section 401(a)(9). The amounts payable must satisfy the minimum distribution incidental benefit requirements of Code Section 401(a)(9)(G).
- (2) Determination of amount to be distributed each year.
- (a) General annuity requirements. If the member's interest is paid in the form of annuity distributions under the retirement system, payments under the annuity will satisfy the following requirements:
    - [1] Distributions will be paid in periodic payments made at intervals not longer than one year;
    - [2] The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Subsection C(3) or (4); and
    - [3] Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.
  - (b) Amount required to be distributed by required beginning date. The amount that must be distributed on or before the member's required beginning date {or, if the member dies before distributions begin, the date distributions are required to begin under Subsection C(1)(a)[1][a] or [b]} is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.
  - (c) Additional accruals after first distribution calendar year. Any additional benefits accruing to the member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (3) Requirements for annuity distributions. If the member had begun receiving periodic payments from the plan that were not annuitized, the balance shall be paid to the beneficiary at least as rapidly as under the payment option selected by the member. If the member had begun receiving payments in the form of a pension or annuity, the beneficiary shall be bound by all restrictions applicable to the pension or annuity, and the form of payment selected thereunder, and remaining payments, if any, shall be paid to the beneficiary in the same manner.
- (4) Requirements for minimum distributions where member dies before date distributions begin.
- (a) Member survived by designated beneficiary. If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in Subsection C(1)(a)[1][a] or [b], over the life of the designated beneficiary or over a period certain not exceeding:
    - [1] Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or
    - [2] If the annuity starting date is before the first distribution calendar year, the life expectancy of

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the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

- (b) No designated beneficiary. If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.
  - (c) Death of surviving spouse before distributions to surviving spouse begin. If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Subsection C(4) will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to Subsection C(1).
- (5) Definitions. The following definitions shall apply for purposes of this Subsection C:

**DESIGNATED BENEFICIARY** — The individual who is designated as the beneficiary under the retirement system and is the designated beneficiary under Code Section 401(a)(9) and Treasury Regulation Section 1-401(a)(9)-4.

**DISTRIBUTION CALENDAR YEAR** — A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Subsection C(1)(a).

**LIFE EXPECTANCY** — Life expectancy as computed by use of the Single Life Table in Treasury Regulation Section 1.401(a)(9)-9. This definition of "life expectancy" shall apply only for purposes of calculating minimum required distributions under Code Section 401(a)(9) and the Treasury Regulations thereunder and shall not apply for purposes of calculating any pension or any benefit assigned under an EDRO otherwise payable under the retirement system.

### § 2-241. Nonduty death retirement allowance.

- A. Any member who has acquired the minimum number of years of credited service to satisfy the voluntary retirement age requirement, may, at any time prior to the date of his or her retirement, elect Option B provided in § 2-240, and nominate a beneficiary whom the Board finds to be dependent upon the member for at least 50% of his or her financial support. Prior to the date of his or her retirement, a member may revoke his or her election of Option B and nomination of beneficiary and, prior to the date of his or her retirement, he or she may again elect Option B and nominate a beneficiary as provided in this subsection. Upon the death of a member who has an Option B election in force, his or her beneficiary, if living, shall immediately receive a retirement allowance, which is the actuarial equivalent of a straight life retirement allowance computed according to § 2-236, in the case of a Public Safety member, or according to § 2-237, exclusive of Subsection B, in the case of a general member, computed in the same manner in all respects as if the member had retired the day preceding the date of his or her death, notwithstanding that he or she might not have attained his or her voluntary retirement age. If a member has an Option B election in force at the time of his or her retirement, his or her election of Option B and nomination of beneficiary shall thereafter continue in force unless, prior to the date of his or her retirement, he or she elects a straight life retirement allowance or another option provided in § 2-240. No retirement allowance shall be paid under this subsection on account of the death of a member if any benefits are paid or are to be payable under § 2-241B or 2-244 on account of his or her death. **[Amended 10-4-2010 by Ord. No. 1874]**
- B. Any member who has acquired the minimum number of years of credited service to satisfy the voluntary age requirement, but does not have an Option B election provided in Subsection A of this section in force, and

- § 2-241 dies while in the employ of the City and leaves a spouse, the spouse shall immediately receive a retirement allowance computed according to § 2-237, exclusive of Subsection B, in the same manner and all respects as if the member had retired the day preceding the date of his or her death, notwithstanding that he or she might not have attained his or her voluntary retirement age, elected Option B provided in § 2-240 and nominated his or her spouse as beneficiary. No retirement allowance shall be paid under this subsection on account of the death of a member, if any benefits are paid or are to be payable under §§ 2-241A and 2-244 on account of his or her death. **[Amended 10-4-2010 by Ord. No. 1874]**
- § 2-242
- C. If any Public Safety member continues in the employ of the City on or after the date he or she acquires 10 years of credited service, and does not have an Option B election provided in Subsection A of this section in force, and dies while in the employ of the City, the applicable benefits provided in Subsection C(1), (2) and (3) shall be paid:
- (1) The accumulated contributions standing to the member's credit in the annuity savings fund at the time of his or her death shall be paid in accordance with the provisions of § 2-247.
  - (2) The surviving spouse of the deceased person shall receive a pension of 33 1/3% of his or her final compensation. A surviving spouse's pension shall terminate upon his or her remarriage or death, and shall be subject to § 2-245 and to Subsection B of this section.
  - (3) If the deceased person leaves an unmarried child or children under age 18 years, 15% of the final compensation shall be paid for one child or 25% of the final compensation for two or more children. Upon a child's adoption, marriage, death or attainment of age 18 years, whichever occurs first, his or her pension shall terminate and the Board shall recalculate and make payment of the deceased person's final compensation to his remaining eligible children under 18 years of age, if any, in the percentages set forth in this section. Any pension payable under this subsection shall be subject to § 2-245.
- D. If a beneficiary elects to take benefits under § 2-240 or 2-241A, then no benefits shall be paid under § 2-241C on account of his or her death.

**§ 2-242. Disability retirement.**

- A. A member who has acquired the minimum number of years of credited service to satisfy the voluntary retirement age requirement and becomes totally and permanently incapacitated for duty in the employ of the City may be retired by the Board upon application of the member or his/her department head, provided that, after medical examination of the member made or by under the direction of the medical director, the medical director certifies to the Board that the member is mentally or physically totally incapacitated for duty in the employ of the City, will probably be permanently incapacitated and should be retired. Upon his retirement, the member shall receive a disability retirement allowance provided in § 2-243. **[Amended 10-4-2010 by Ord. No. 1874]**
- (1) A decision by the Board to grant either a duty or non-duty disability retirement to any employee, including Public Safety officers, shall be a final decision on that employee's fitness to work. A decision by the Board to retire any employee, including a Public Safety officer, for reasons of disability shall completely terminate that individual's right to continue to work for the City, and shall be effective immediately, regardless of whether that individual subsequently remains on the payroll or is otherwise compensated by the City after the date of the Board's decision by virtue of accumulated sick pay, vacation pay, worker's compensation, or any other type of payment of wages, salary or any other type of compensation.
- B. A member need not have acquired the minimum number of years of credited service to satisfy the voluntary retirement age requirement if the Board finds the member to be totally and permanently disabled for duty in the employ of the City as the natural and proximate result of the personal injury or disease arising out of and in the course of his/her City employment. **[Amended 10-4-2010 by Ord. No. 1874]**

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- C. Beginning January 1, 1984, if a Public Safety member is totally incapacitated for duty as a police officer, fire fighter or Public Safety officer and the Board finds that his or her disability is the natural and proximate result of causes arising out of and in the course of his or her employment as a police officer or fire fighter with the City and that the employee will likely be permanently so incapacitated, the member shall be entitled to a duty disability retirement allowance calculated in the same manner as a voluntary retirement benefit, except that, during the member's worker's compensation period, his or her duty disability retirement allowance under this subsection shall not exceed the difference between his or her final compensation and his or her weekly worker's compensation award converted to an annual basis.
- (1) If the member disagrees with the finding of the medical director, he or she shall have the right to submit reports from his or her medical doctor. In the event a dispute continues to exist, the medical director and the member's doctor shall select a third doctor who shall provide the Board with an opinion concerning the disputed matters before the Board renders its decision.
  - (2) If a dispute continues to exist concerning the meaning or application of the retirement system after a decision by the Board, such dispute shall not be grievable under labor agreements, but subject to review, as provided by applicable law, in the Kalamazoo County Circuit Court or other court as may be appropriate.
  - (3) The Public Safety member may elect to waive the provisions of the duty disability retirement he or she is entitled to and accept such retraining, rehabilitation and/or other employment as the City may choose to offer. The Public Safety member shall retain any benefits he or she has earned in the police/fire portion of the retirement system.
- D. The Board of Trustees shall have the right and opportunity to have a medical examination conducted of the person whose injury or sickness is the basis of a disability benefit during the pendency of a claim or period of payment, subject to the following:
- (1) Examination may be made no more often than once during every twelve-month period, except that the Board may require examination at any time there is specific reason to believe that the disability or condition giving rise thereto no longer exists;
  - (2) The examination shall be limited to the condition upon which the disability is based.
  - (3) The expense of the examination and all other reasonable incidental costs, such as travel, meals and lodging at standard rates for City employee travel, will be borne by the retirement system under § 2-251 of the Kalamazoo City Code.
  - (4) If the Board at any time believes that the facts of the case do not require further examination, the Board may waive examination for any time the Board deems appropriate based upon the facts of the case, but such waiver may be rescinded by the Board at any time.
  - (5) Notification of the time, date and place of the examination shall be mailed to the retirant at the address to which his or her benefits are mailed, and said notice shall be mailed at least 30 days prior to the date of the examination.
- E. If the retirant fails or refuses examination, or if upon reviewing the medical information received, the Board is not satisfied that the disability still exists, the Board shall so inform the retirant. If, within 30 days of such notice being sent, the retirant has not requested a hearing on the mailer, the Board may terminate the disability benefits. The termination of benefits under this section shall not affect eligibility for nondisability benefits. If a hearing is timely requested, the retirant shall be permitted to present evidence, question witnesses, and make argument for nontermination. The Board may obtain and consider any relevant evidence. If it finds that the disability no longer exists, benefits shall be terminated. The time, date, and place of the hearing shall be set by the Board. Notices shall be to the retirant at the address to which his or her benefits are sent.



**§ 2-243. Disability retirement allowance (duty and non-duty).**

- A. If a member retires on account of his or her total and permanent disability, as provided in § 2-242, and the Board finds that his or her disability did not occur as the result of causes arising out of and in the course of his or her actual performance of duty in the employ of the City, he or she shall receive a disability retirement allowance computed according to § 2-236, if he or she is a Public Safety member, or according to § 2-237, exclusive of Subsection B, if he or she is a general member. His or her disability retirement allowance shall be subject to §§ 2-245 and 2-246. Prior to the date of his or her retirement, he or she shall have the right to elect to receive his or her retirement allowance under an option provided in § 2-240 in lieu of a straight life retirement allowance.
- B. If a member retires before his or her voluntary retirement age on account of his or her total and permanent disability, as provided in § 2-242, and the Board finds that his or her disability is the natural and proximate result of cause arising out of and in the course of his or her actual performance of duty in the employ of the City, he or she shall receive a disability retirement allowance computed according to § 2-236, if he or she is a Public Safety member, or according to § 2-237, exclusive of Subsection B, if he or she is a general member. In computing his or her disability retirement allowance, the credited service to be used shall be the sum of his or her credited service in force at the time of his or her retirement and the number of years, and fraction of a year, in the period from the date of his or her retirement to the date he or she would attain his or her voluntary retirement age had he or she continued in City employment. For public safety members, receipt of benefits from the retirement system is an election of like benefits in lieu of workers' compensation wage loss benefits under the Michigan Workers Disability Compensation Act of 1969, as amended, 1975 PA 279; MCLA § 418.101 et seq. His or her disability retirement allowance shall be subject to § 2-246. Prior to the date of his or her retirement, he or she shall have the right to elect to receive his or her retirement allowance under an option provided in § 2-240 in lieu of a straight life retirement allowance. **[Amended 10-5-2020 by Ord. No. 2016]**

**§ 2-244. Benefits for death in line of duty.**

- A. In the event a member dies as the result of a personal injury or disease arising solely out of and in the course of his or her employment by the City, or a disability retiree dies within a period of five years from and after the effective date of his or her retirement, and prior to attainment of age 60 years, as the result of the same injury or disease for which he or she was retired, and in either case such death, injury or disease resulting in death is found by the Board to have been the result of his or her actual performance of duty in the employ of the City, the applicable benefits provided in Subsection A(1), (2), (3), (4) and (5) of this subsection shall be paid.
- (1) The accumulated contributions standing to the member's credit in the annuity savings fund at the time of his or her death shall be paid in accordance with the provisions of § 2-247; or
  - (2) The surviving spouse of the deceased person shall receive a pension of 33 1/3% of his or her final compensation, provided that, in the case of a disability retiree, he or she was the spouse of the member at the time of the member's retirement. A surviving spouse's pension shall terminate upon his or her remarriage or death, and shall be subject to § 2-245 and to Subsection B of this section; and
  - (3) If, in addition to a surviving spouse, the deceased person leaves an unmarried child or children under age 18 years, each such child shall receive a pension of an equal share of 25% of his or her final compensation. Upon a child's adoption, marriage, death or attainment of age 18 years, whichever occurs first, his or her pension shall terminate and the Board shall redistribute the shares of 25% of the deceased person's final compensation to his or her remaining eligible children under age 18 years. Any pension payable under this subsection shall be subject to § 2-245 and to Subsection B of this section; but
  - (4) If there is no spouse surviving the deceased person, or if his or her surviving spouse dies or remarries before his or her youngest unmarried child attains age 18 years, his or her unmarried child or children

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under age 18 years shall each receive a pension of 25% of his or her final compensation; provided that, if there are more than two such surviving children, each such child shall receive a pension of an equal share of 50% of his or her final compensation. Upon a child's adoption, marriage, death or attainment of age 18 years, whichever occurs first, his or her pension shall terminate and the Board shall redistribute the shares of 50% of the deceased person's final compensation to his or her remaining eligible children under age 18 years. In no case shall any such child's pension exceed 25% of the deceased person's final compensation. Any pension payable under this subsection shall be subject to § 2-245 and to Subsection B of this section; or

- (5) If there is neither a surviving spouse nor children eligible to receive a pension provided in this section surviving the deceased person, there shall be paid to each his or her dependent father and dependent mother, whom the Board, after investigation, finds to have been actually dependent upon the deceased person for financial support, a pension of 16 2/3% of his or her final compensation. Any pension payable under this subsection shall be subject to § 2-245 and to Subsection B of this section, and shall in no case exceed \$720 a year.

- B. If a beneficiary becomes entitled to a retirement allowance provided in § 2-240 or 2-241 on account of the death of a retirant or member, and he or she elects to take under § 2-240 or 2-241, then no benefits shall be paid under this section on account of his or her death. Any pension due any child under Subsection A of this section may, in the discretion of the Board, be paid to the parent or person who stands in loco parentis to such child; provided that, if the Board finds that such child is not being properly cared for, the Board may require the appointment of a guardian for the purpose of receiving such pension.

**§ 2-245. Pension offset by worker's compensation; subrogation of rights against third party. [Amended 9-8-2020 by Ord. No. 2015]**

A general member receiving pension or retirement benefits shall be presumed not to have a loss of earnings or earning capacity as the result of an injury or disease under the Michigan Workers Disability Act. Net benefits paid to a general member shall be reduced by 100% of the amount of workers' compensation benefits paid or payable under the Michigan Workers Disability Compensation Act, 1969 PA 279; MCLA § 418.101 et seq., for identical periods of time except there will be no credit or reduction for specific loss benefits paid or received under the workers' disability compensation. In the event a person becomes entitled to a pension or other benefits, payable by the retirement system, as the result of an accident or injury caused by the act of a third party, the City shall be subrogated to the rights of such person against such third party to the extent of the benefits which the City pays or becomes liable to pay.

**§ 2-246. Return of disability retirant to City employ; payment proportional to available funds.**

A disability retirant who has been or who shall be returned to the employ of the City shall again become a member of the retirement system. His or her credited service in force at the time of his or her retirement shall be restored to his or her credit. He or she shall be given service credit for the period he or she was receiving a disability retirement allowance if, within such period, he or she was in receipt of worker's compensation on account of his or her total and permanent disability arising out of and in the course of his or her City employment; otherwise, he or she shall not be given the service credit for the period he or she was in receipt of a disability retirement allowance.

**§ 2-246.1. through § 2-246.4. (Reserved)**

**§ 2-246.5. Periodic payment.**

- A. Commencing in the year 2001, and thereafter occurring every third year, subject to the limitations set forth below, a nonguaranteed payment shall be paid from the system assets to certain retirees; for each such person, the amount to be paid shall be the product of \$43.67 (subject to the increases allowed below) times the sum of the retiree's years and fraction thereof of credited service plus the number of years and fraction thereof

§ 2-246.5 which have elapsed between the retirant's date of retirement and December 31 of the year preceding the payment to be made. § 2-246.5

**B. Eligibility. [Amended 4-21-2008 by Ord. No. 1838]**

- (1) The retirees eligible to receive said periodic payment shall be those who:
  - (a) Retired prior to January 1, 2000; and
  - (b) Have been retired at least five years prior to December 31 of the year preceding the periodic payment to be made; and
  - (c) Have attained the age of 70 years prior to June 1 of the year preceding the periodic payment to be made; and
  - (d) Had at least 25 years of service with the City of Kalamazoo; and
  - (e) Whose annual retirement allowance is less than \$20,000, but who are not eligible for a post-retirement adjustment.
- (2) In those instances where a retirement allowance is divided by an EDRO, the "retired prior to" language above applies to the actual retiree, not the alternate payee; the "less than \$20,000" requirement shall apply to the combined amounts being received by the retiree and the alternate payee.

C. If the periodic payment provided for above, when added to the existing retirement allowance, exceeds \$20,000, the periodic payment shall be reduced by the amount said sum exceeds \$20,000. In those instances where a retirement allowance is divided by an EDRO, if the periodic payment(s), when added to the existing retirement allowances, exceed \$20,000, the periodic payment(s) shall be reduced by the amount said sum exceeds \$20,000. **[Amended 4-21-2008 by Ord. No. 1838]**

D. A beneficiary currently receiving a retirement allowance, or an individual who in the future becomes a beneficiary and who thereafter receives such an allowance, shall be entitled to receive the periodic payment based upon the same calculations (that is, the beneficiary's retirant's years of credited service and years since retirement) and subject to the same limitations, as described herein.

E. In computing future retirement allowance payments, or any other payment due to a retirant or beneficiary, the payments provided herein shall not be considered.

F. The periodic payment described herein shall be made in June every third year, commencing 2001; however, no payment shall be made in any year in which the fund's actuary projects (based upon a valuation of the fund as of December 31 of the prior year) the need for City contributions to the fund (for one or more actuarial grouping) within 10 years of the projection nor if the actuary recommends a contribution by the City (for one or more actuarial grouping) for that year. In the event a periodic payment is not made in a year in which it would otherwise occur (because of the actuary's projection or recommendation), then the payment shall be made in the next year in which no such actuarial projection or recommendation is made. In the event that a periodic payment is so delayed, future periodic payments shall be made every third year thereafter (so long as not prohibited by an actuarial projection or recommendation).

G. When calculating the amount of the periodic payment for each individual after 2001, the \$43.67 amount referenced above shall increase by the lesser of 2% per year or the C.P.I. (i.e., the Consumer Price Index, U.S. City Average, all urban consumers) which exists for the period of time between December 31 of the year preceding the last payment and December 31 of the year preceding the payment to be made.

H. In no event, however, shall the total of all of the periodic payments in one year exceed the amount of \$750,000; in the event the total payments are in excess of that amount, each individual's payment shall be reduced proportionately to reduce the total payment to said \$750,000. Any periodic payment due to a retiree

§ 2-246.5 who is alive on December 31 of the year prior to the payment, but who dies before the payment is made, shall be made (one time only) to that retiree's estate or beneficiary, as the case may be. § 2-248

I. Notwithstanding any of the above, the City administration shall be entitled to recommend to the City Commission at any time that the periodic payments be reduced or eliminated, and the City Commission shall, at any time, be entitled, with or without such a recommendation, to reduce or eliminate said periodic payments.

**§ 2-247. Refund of accumulated contributions.**

- A. Should any member cease to be employed by the City before he or she attains his voluntary retirement age, for any reason except his or her retirement or death, he shall be paid his accumulated contributions standing to his or her credit in the annuity savings funds, as he or she shall demand in writing on forms furnished by the Board.
- B. Should a member die and no retirement allowance or pension will become payable by the retirement system on account of his or her death, except as provided in § 2-244, his or her accumulated contributions standing to his or her credit in the annuity savings fund at the time of his or her death shall be paid to such person or persons as he or she shall have nominated by written designation duly executed and filed with the Board. If there is no such designated person surviving the member, his or her accumulated contributions shall be paid to his or her legal representative.
- C. If a member dies without heirs, and without a designated beneficiary surviving him or her, accumulated contributions standing to his or her credit in the annuity savings fund at the time of his or her death may be used to pay his or her burial expenses, not to exceed a reasonable sum to be determined by the Board, provided he or she leaves no other estate sufficient for such purpose.
- D. Payments of accumulated contributions, as provided in this section, may be made in installments according to such rules and regulations as the Board may from time to time adopt.
- E. Code Section 401(a)(31), Direct rollovers. Notwithstanding any provision of the plan to the contrary, for distributions made on or after January 1, 1993, a distributee may elect, at the time and in the manner prescribed by the Board of Trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

**§ 2-248. Annuity savings fund; members' contributions; transfers.**

- A. The annuity savings fund is hereby created. It shall be the fund in which shall be accumulated at regular interest, the contributions deducted from the compensation of members (or "picked up" by the City pursuant to Subsection F to provide for their annuities, and from which shall be made refunds and transfers of accumulated contributions as provided in this article.
- B. Each member shall contribute a percentage of his or her annual compensation to the annuity fund, which percentage shall be as follows:
  - (1) For Public Safety members, 8% throughout 1998, 7 1/4% throughout 1999, and 6 1/2% on and after January 1, 2000, except that on and after January 1, 1999, those Public Safety members who are members of the Kalamazoo Police Supervisors' Association with at least 26 years but fewer than 29 years of credited service need make no contributions.
  - (2) For members represented by the Kalamazoo Municipal Employees Association, 3%, except that on and after March 13, 2000, the percentage shall be 2%, and except that on and after January 1, 2001, the percentage shall be 1%, unless increased as provided by the collective bargaining agreement.
  - (3) For members represented by the ATU, 2%, except that commencing March 1, 2000, the amount shall be

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1%.

- (4) For civilian, non-sworn employees of Public Safety represented by the Kalamazoo Police Officers Association, 4% except that on and after January 12, 2007, it shall be 1%.
  - (5) For a member who is represented by the AFSCME effective October 2, 2006, 1%, but that will increase to 2% if the funding level of the pension fund drops below 120%.
  - (6) For members who are exempt, 1.5%, except for those exempt members hired on or after June 1, 2006, it shall be 3%; and except for those exempt members who pay an additional 2% pursuant to § 2-237E above.
- C. The officer or officers responsible for making the payroll shall cause the applicable contribution provided for in Subsection B of this section to be deducted from the compensation of each member (or "picked up" by the City pursuant to Subsection F with respect to each and every payroll, for each and every payroll period, so long as he or she remains a member in the employ of the City. Such contribution, when thus deducted or "picked up," shall be paid to the retirement system and shall be credited to his or her individual account in the annuity savings fund. Every member shall be deemed to consent and agree to the deductions or salary reductions made and provided for herein. Payment of his or her compensation, less such deductions or reductions, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by him or her during the period covered by such payment, except as to benefits provided under this article. The member's contributions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member shall be thereby changed.
- D. In addition to the contributions deducted from the compensation of a member, as hereinbefore provided, he or she shall deposit in the annuity savings fund, by a single contribution or by an increased rate of contribution, as approved by the Board, the amount, if any, he or she withdrew from the annuity savings fund, together with regular interest from the date of withdrawal to the date of repayment. In no case shall any member be given credit for service rendered prior to the date he or she withdrew his or her accumulated contributions until he or she repays the annuity savings fund all amounts due the fund by him or her.
- E. Upon the retirement of a member, his or her accumulated contributions shall be transferred from the annuity savings fund to the retirement reserve fund. At the expiration of a period of three years from the date an employee ceases to be a member, any balance standing to his or her credit in the annuity savings fund, unclaimed by the member or his or her legal representative, shall remain a part of the monies of the retirement system, provided he or she does not have entitlement to a retirement allowance payable by the retirement system.
- F. The City Commission may, from time to time by resolution, designate one or more classes, groups or categories of City employees who shall have their employee contributions "picked up" as hereinafter described, provided that:
- (1) The City Commission may, by appropriate resolution, likewise withdraw such designation from one or more classes, groups or categories of City employees.
  - (2) All designations or withdrawals of designations shall be done so as not to discriminate in favor of employees who are officers or highly compensated individuals, within the meaning of Section 401(a)(4) of the Internal Revenue Code.
    - (a) Effective as provided in the following subsection, the contributions, required by Subsection B in respect of those employees who are included within a class, group or category so designated by the City Commission, shall be "picked up" by the City in lieu of their employee contributions, as permitted by Section 414(h) of the Internal Revenue Code, and shall be treated as employer contributions in determining tax treatment under said Code. The City shall "pick up" these employee contributions from funds made available as a result of each such employee's

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authorization to reduce his or her salary or wages in an amount corresponding to the contribution required by Subsection B. Employee contributions "picked up" by the City pursuant to this subsection shall be treated for all other purposes in the same manner and to the same extent as employee contributions made prior to the effective date of this subsection. No employee in any such class, category or group shall have the option of choosing to receive contributed amounts directly, instead of having them paid by the City to the retirement system.

**§ 2-249. Retirement reserve fund.**

The retirement reserve fund is hereby created. It shall be the fund from which shall be paid all annuities and pensions payable as provided in this article. Should a disability retirant return to the employ of the City, his annuity reserve at the date of his or her return shall be transferred from the retirement reserve fund to the annuity savings fund and shall be credited to his or her individual account therein; and his or her pension reserve shall be transferred to the pension reserve fund.

**§ 2-250. Reserve for employer contributions; City contribution.**

- A. The reserve for employer contributions shall be the account to which shall be credited contributions made by the City to the retirement system and from which shall be made transfers as provided in this section.
- B. Each year following receipt of the report of the annual actuarial valuation, the excess, if any, of the reported value of retirement allowance being paid and likely to be paid retirants and beneficiaries over the balance in the reserve for retired benefit payments shall be transferred from the reserve for employer contributions to the reserve for retired benefit payments.
- C. The financial objective of this section is to require City contributions to the retirement system each fiscal year which, together with the contributions made by members during the fiscal year, shall be sufficient to (i) fully fund the cost of benefits likely to be paid on account of service rendered by members during the year, and (ii) finance unfunded costs of benefits likely to be paid on account of service rendered by members prior to the current year over a period of not more than 40 years. Such contributions shall be computed by the actuary as level percentages of member payroll in accordance with generally accepted actuarial principles on the basis of such rates of interest and tables of experience as the Investment Committee recommends and the City Commission shall from time to time adopt. The City may also contribute the anticipated cost of any insurance coverage provided retirants and beneficiaries through the retirement system. The Investment Committee shall annually certify to the Commission the contributions determined according to this section.
- D. Forfeited amounts, if any, resulting from the operation of the retirement system shall be applied to reduce the next succeeding contribution or contributions required to be made to the reserve by the City under this section and shall not be applied to increase any pensions and/or annuities payable to any member under the retirement system.

**§ 2-251. Expenses.**

Expenses for the administration of the retirement system shall be paid from investment income.

**§ 2-252. (Reserved)**

**§ 2-252.1. Investment Committee and management of Trust Fund.**

There is hereby created an Investment Committee which shall manage the assets of the system and have full power to invest and reinvest such assets, subject to the provisions of Act 314 of the Public Acts of 1965 (MCLA § 38.1132 et seq.), as amended, and any other applicable law or regulation. The Committee shall have the power to purchase notes, bonds, or other obligations of the City before or after the same are offered to the public and with or without advertising for bids. The Committee shall have power to hold, purchase, sell, assign, transfer, and dispose of any

§ 2-252.1 securities and investments in which any of the funds of the retirement system have been invested, as well as the proceeds of such investments and any monies belonging to the system. The provisions of this section shall be subject to such conditions and restrictions as the City Commission may from time to time impose by resolution. § 2-252.2

**§ 2-252.2. Investment Committee membership, appointment and duties.**

A. Membership, appointment.

- (1) The Investment Committee shall be composed of no fewer than three members nor more than seven members, all of whom shall have a financial background and none of whom shall be participants in the system. Additionally, to avoid a conflict of interest, or the appearance thereof, no member shall be employed by or associated with (except in the capacity of outside director) any organization that provides services similar to those retained or used by the Committee. One member may be a member of the Board of Trustees of the system.
- (2) The Investment Committee members shall serve without compensation, and if any member fails to attend three consecutive regularly scheduled meetings of the Committee, unless in each case excused for cause by the remaining members, his or her office will be deemed vacated. Within 60 days of any time that the number of Committee members becomes fewer than three, the Mayor, with the consent of the City Commission, shall appoint enough new members so that the Committee consists of three members. At any time the Committee consists of fewer than seven members but more than two members, and a majority of the Committee desires the addition of one or more new members, the Mayor, with the consent of the City Commission, shall appoint new members in such number as requested by the then-existing Committee. All members shall serve three-year terms, with the exception of those who are appointed to replace those with unexpired portions of their terms; said replacement members shall serve the unexpired portion of the term, in the same manner as the office was previously filled.
- (3) The Committee shall hold meetings regularly, at least quarterly, and shall designate the time and place thereof. A majority of the Committee's membership shall constitute a quorum at any meeting of the Committee. Each member shall be entitled to one vote on each question before the Committee; at any meeting with a quorum, decisions shall be made by affirmative vote of a majority of those present; except that should the Committee's membership become three, the entire membership shall constitute a quorum and all decisions shall be made by a unanimous vote of the entire membership. The Committee shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the Committee shall be open to the public. The City Commission may appoint a Commissioner as liaison to the Committee.

B. Officers.

- (1) The Committee shall elect a chairperson and chairperson pro tem.
- (2) The Director of Finance shall serve as secretary to the Committee and provide staff support.
- (3) The City Attorney shall be the legal advisor to the Committee.

C. Duties. The duties of the Investment Committee shall be as follows:

- (1) To formulate and recommend to the City Commission investment policies, strategies, and guidelines for approval by the City Commission.
- (2) To carry out such investment policies, strategies, and guidelines as approved by the City Commission.
- (3) To establish investment performance monitoring systems and report the results of said system quarterly to the City Commission.
- (4) To investigate and recommend investment managers, advisors, actuaries, and other necessary services

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to the City Commission for its approval.

- (5) To recommend to the City Commission for approval the allocation of annual contributions and redistribution of funds, including investment income, to investment managers, reserves and accounts.
- (6) To ensure that investment records are properly maintained.
- (7) To serve as the primary contact with investment managers, actuaries and advisors.
- (8) To ensure that the plan is properly audited.
- (9) To provide the actuary with data to make the annual valuation, which shall show the financial condition of the system by means of an actuarial valuation of its assets and liabilities and be rendered annually to the City Commission.
- (10) To recommend actuarial assumptions to the City Commission.
- (11) To perform such other duties as the City Commission may from time to time direct.

### § 2-252.3. Available cash and use of assets.

There shall be kept on deposit available cash not to exceed 5% of the total assets of the retirement system. The trust fund shall be held for the sole purpose of meeting disbursements for pensions, annuities and other payments authorized by this article and shall be used for no other purpose. It shall not be possible, at any time prior to satisfaction of all liabilities to members and their beneficiaries under the retirement system, for any part of said assets to be used for, or diverted to, purposes other than for the exclusive benefit of members and their beneficiaries and for paying reasonable expenses of the retirement system and the trust fund. The description of the various funds of the retirement system, as contained in this article, shall be interpreted to refer to the accounting records of the system.

### § 2-253. Method of making payments.

All payments from monies of the retirement system shall be made according to Charter and ordinance provisions. No check shall be issued unless it shall have been previously authorized by a specific or continuing resolution adopted by the Board or Investment Committee.

### § 2-254. Income fund; allowance of regular interest.

- A. The income fund is hereby created. It shall be the fund to which shall be credited all interest, dividends and other income from investments of the retirement system; all gifts and bequests received by the system; all unclaimed accumulated contributions as provided in this article; and all other monies received by the system, the disposition of which is not specifically provided in this article. There shall be paid or transferred from the income fund all amounts required to credit regular interest to the annuity savings fund, retirement reserve fund and the pension reserve fund, as provided in this article. Wherever the Investment Committee determines the balance in the income fund is more than sufficient to cover current charges to the fund, such excess amount, or any part thereof, may be used to provide contingency reserves or to meet special requirements of the other funds of the system, except the expense fund, as the Investment Committee shall determine. However, any amounts left in the income fund after meeting the requirements contained herein shall at the end of each year be automatically credited to the employer's reserve. Whenever the balance in the income fund is insufficient to meet the charges to the fund, the amount of such insufficiency shall be transferred from the pension reserve fund to the income fund.
- B. The Investment Committee shall, at the end of each fiscal year, allow regular interest on the members' individual balances in the annuity savings fund at the beginning of the fiscal year, and on the mean balances in the retirement reserve fund and the pension reserve fund. The amounts of interest so allowed and credited



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shall be charged to the income fund.

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- C. The Investment Committee may, unless restricted by law, transfer assets of the income fund to a collective or common group trust, as permitted under Revenue Ruling 81-100 and Revenue Ruling 2011-1 (or subsequent guidance), that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Section 401(a) of the Internal Revenue Code, individual retirement accounts that are exempt under Section 408(e) of the Internal Revenue Code, eligible governmental plans that meet the requirements of Section 457(b) of the Internal Revenue Code, and government plans under Section 401(a)(24) of the Internal Revenue Code. For this purpose, a trust includes a custodial account that is treated as a trust under Section 401(f) or under Section 457(g)(3) of the Internal Revenue Code. For purposes of valuation, the value of the interest maintained by the system in such group trust shall be the fair market value of the portion of the group trust held for the system, determined in accordance with generally recognized valuation procedures. The Investment Committee may adopt one or more group trust(s) as part of the system, by executing appropriate participation and/or adoption agreements with the group trust's trustee. **[Added 11-3-2014 by Ord. No. 1927]**

**§ 2-255. Previous assets credited to retirement system.**

All assets held as of the effective date of Ordinance No. 378 for the purpose of financing the retirement system established by Ordinance No. 188 shall be credited to the retirement system as amended by Ordinance No. 378. Such credits shall be made as follows:

- A. Assets credited to the prior service pension fund and all other assets held for the purpose of financing prior service pensions shall be credited to the pension reserve fund.
- B. Assets credited to the retirement annuity and pension fund arising from City contributions shall be credited to the pension reserve fund.
- C. Assets credited to the individual accounts of members in the retirement annuity and pension fund arising from their contributions, together with regular interest credited thereon, shall be credited to their individual accounts in the annuity savings fund.
- D. Assets credited to the retirement annuity and pension fund held for the purpose of paying annuities and pensions to individuals who have retired shall be credited to the retirement reserve fund.
- E. All other assets held for the purpose of financing the retirement system established by Ordinance No. 188, not accounted for above, shall be credited to the pension reserve fund.

**§ 2-256. Benefits assumed.**

The retirement benefits allowed under Ordinance No. 188 prior to the effective date of Ordinance No. 378 shall be continued without adjustment of amounts. The 1966 amendments of Ordinance No. 378, as amended, shall not apply to pensions and retirement allowances being paid as of the day preceding the effective date of the 1966 amendments.

**§ 2-257. Correction of errors.**

Should any change in the records result in any person receiving from the retirement system more or less than he or she would have been entitled to receive had the records been correct, the Board shall correct such error and, as far as is practicable, shall adjust the payment in such manner that the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid.

**§ 2-258. Benefits, rights or funds not subject to legal process or assignment; City's right of setoff; forfeiture of retirement allowance.**

- § 2-258
- § 2-261
- A. The right of a person to an annuity, a pension, a retirement allowance, to the return of accumulated contributions, the annuity, the pension, or the retirement allowance itself, any optional benefits, any other right accrued or accruing to any person under the provisions of this article, and any moneys belonging to the retirement system, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable except as is specifically provided in this article. If a member is covered by a group insurance or prepayment plan participated in by the City, and should he be permitted to, and elect to, continue such coverage as a retirant, he or she may authorize the Board to have deducted from his or her retirement allowance the payments required of him or her to continue coverage under such group insurance or prepayment plan. The City shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retirant or beneficiary.
- B. The City shall comply with a court order directing that all or a portion of a member's pension rights be forfeited, pursuant to the Public Employee Retirement Benefits Forfeiture Act, MCLA § 38.2701 et seq.

**§ 2-259. Protection against fraud.**

Whoever, with intent to deceive, shall make any statement or report required under this article which is untrue, or shall falsify or permit to be falsified any record or records of the retirement system, or who shall otherwise violate, with intent to deceive, any provision of this article shall be guilty of a misdemeanor and punishable as provided in § 1-7 of this Code.

**§ 2-260. Retirant's death benefit. [Amended 1-3-2023 by Ord. No. 2060]**

Upon the death of any retirant, excepting members taking a deferred retirement benefit under § 2-239A, the retirement system shall pay to the beneficiary previously designated by the retirant, or if none to the estate of the deceased, the sum of \$5,000.

**§ 2-261. Reciprocal Retirement Act. [Amended 9-8-2020 by Ord. No. 2015]**

- A. This City, being a "municipal unit" which covers its employees under a retirement system, does hereby, by a majority vote of its governing body, elect to adopt the provisions of the Reciprocal Retirement Act, No. 88 of 1961 (MSA § 4.1601; MCLA § 38.1101), for its employees covered under such retirement system. The City Clerk shall file written certification of this action with the Secretary of State for the State of Michigan.
- B. An employee who has 30 months or more of credited service acquired as a member of the City's retirement system and who has attained the age but has not met the service requirements for age and service retirement shall be entitled to use his or her credited service in force previously acquired as a member of another Michigan governmental or municipal unit retirement system, including credited service in force previously acquired as a member of a retirement system of any public university and tax-supported community or junior college in the State of Michigan, in meeting the service requirements of the City's retirement system. As used in this section, "governmental unit" and "retirement system" mean those terms as defined at MCLA § 38.1102. **[Amended 1-3-2023 by Ord. No. 2060]**
- C. As of December 31, 2019, a member can use his or her credited service in force previously acquired as a member of a reciprocal unit to meet eligibility service requirements to qualify for 1) increased multipliers found in §§ 2-236 and 2-237; 2) any post-retirement adjustment in for his or her respective employee group; and 3) achieving 25 years of credited service to avoid the reduction in retirement allowance as otherwise required by § 2-237B. Public Safety members who retired before December 31, 2019, can use credited service in force previously acquired as a member of a reciprocal unit for vesting purposes only. As used in this section, "reciprocal unit" means that term as defined at MCLA § 38.1102. **[Amended 1-3-2023 by Ord. No. 2060]**
- D. A general member that retired between July 26, 2017, and December 30, 2019, with credited service with a Michigan governmental or municipal unit that has elected to adopt the provisions of the Reciprocal

§ 2-261 Retirement Act, being Public Act 88 of 1961, as amended, is permitted to apply previous credited service with a reciprocal unit so as to permit the member to achieve 25 years of credited service to avoid the reduction in retirement allowance as otherwise required by § 2-237B. § 2-263.1

- E. Members who retire between August 1, 2020, and December 31, 2020, may use up to one year of concurrent service from another Michigan governmental or municipal unit if that member was also a member of that Michigan governmental or municipal unit's retirement system, as defined by MCL § 38.1102, in meeting the service requirements of the City's retirement system. "Concurrent service" shall mean for this subsection simultaneous service with the City of Kalamazoo and another Michigan municipal or governmental unit.

**§ 2-262. Description of funds; effect.**

The description of various funds of the retirement system shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of monies in the various funds of the system.

**§ 2-263. Maximum retirement allowances.**

Maximum retirement allowances. Notwithstanding any other provision of the retirement system to the contrary, the maximum annual retirement allowance derived from City contributions to the system, payable on a straight life basis in respect to a member, at the time of retirement shall not exceed the lesser of:

- A. Effective January 1, 2002, the dollar amount established in Code Section 415(b)(1)(A), which is adjusted for inflation based on Section 215(i)(2)(A) of the Social Security Act; or
- B. One hundred percent of the member's average compensation from the City during the three consecutive calendar years during which he or she was an active member and had the greatest aggregate compensation from the City, except that for those persons who are members on or before March 1, 1999, and who are then, or thereafter become, exempt members and who retire on or after January 1, 1999, the percentage shall be 92%; and further except that for those persons who first become members after March 1, 1999, and who then or thereafter become exempt employees, the percentage shall be 70%; provided, however, that:
- (1) If retirement allowances are payable in any form other than on a straight life basis, the determinations as to whether the foregoing limitation has been satisfied shall be made in accordance with applicable treasury regulations by adjusting such retirement allowances so they are equivalent to retirement allowances payable on a straight life basis.
  - (2) If the member has less than 10 years of credited service, the maximum annual retirement allowance payable on a straight life basis in respect of a member shall be the applicable maximum annual amount described above multiplied by a fraction, the numerator of which is the number of years of his or her credited service and the denominator of which is 10.
  - (3) For purposes of this section, there shall not be taken into account any ancillary benefit which is not directly related to retirement income benefits, nor any other benefit not required by Section 415(b)(2) of the Internal Revenue Code, as amended, to be taken into account for purposes of the limitation on retirement allowances described in this section.
  - (4) If a member should become a member in, or become entitled to benefits under, another tax-qualified pension, profit-sharing or savings plan of the City, the Board of Trustees may reduce the retirement allowance payable in respect of such member under this retirement system to the extent necessary to prevent disqualification of this retirement system. In such event, the Board of Trustees shall notify the member of such reduction and furnish him or her with an explanation of the same.
  - (5) For limitation years beginning on or after July 1, 2007, a member's average compensation shall take into account the annual limit on compensation under Code Section 401(a)(17) for each of the member's three calendar years of compensation used in determining such average compensation.

**§ 2-263.1. Eligible domestic relations orders.**

An eligible domestic relations order ("EDRO") is a signed domestic relations order issued by a state court which assigns to an alternate payee(s) the right to receive all or part of a member's retirement system benefit that is or will become payable to the member. An alternate payee is a spouse, former spouse, child or other dependent of a member who is treated as a beneficiary under the retirement system as a result of the EDRO. The Board of Trustees may establish EDRO procedures, but in the absence of such procedures, the Board will determine if a domestic relations order is an EDRO in accordance with the following:

- A. Board of Trustees' determination. Promptly upon the receipt of a domestic relations order, the Board will notify the member and any alternate payee named in the order of such receipt and will include a copy of this section. Within a reasonable time after receipt of the order, the Board will make a determination as to whether the order is an EDRO as defined in MCLA § 38.1701 et seq. and will notify the member and the alternate payee(s) in writing of the determination. Notwithstanding any other provision of the retirement system, the retirement system may make a distribution to an alternate payee pursuant to an order that the Board of Trustees has determined to be an EDRO prior to the date the member attains his or her earliest retirement age, as defined in Code Section 414(p)(4)(B), only if the EDRO specifically requires the retirement system to make a distribution prior to such date.
- B. Specific requirements of an EDRO. In order for a domestic relations order to be an EDRO, it must specifically state all of the following: (1) the name, last known mailing address (if any) and the social security number of the member and each alternate payee(s) covered by the order; (2) the dollar amount or percentage of the benefit to be paid to each alternate payee, or the manner in which the amount or percentage is to be determined; (3) the number of payments or period to which such order applies; and (4) the name of the plan to which the order applies. The domestic relations order will not be deemed an EDRO if it requires the retirement system to provide any type or form of benefit, or any option not already provided for in the system, or increased benefits determined on the basis of the actuarial value, or benefits in excess of the member's retirement system benefit, or payment of benefits to an alternate payee(s) required to be paid to another alternate payee under another EDRO.
- C. Disputed orders. If there is a question as to whether or not a domestic relations order is an EDRO, there will be a delay in any payout to any payee(s), including the member, until the status is resolved. If the retirement system determines that the order is not an EDRO, the retirement system shall notify the employee and the alternate payee(s) of this determination. The notification shall specify the reasons the order was not determined to be an EDRO. This determination does not prohibit the employee or the alternate payee(s) or the court from filing an amended order with the retirement system for redetermination.
- D. Death of alternate payee(s). If an alternate payee(s) dies before receiving any payment of a benefit pursuant to an EDRO, that interest reverts to the member.

**§ 2-264. Termination of retirement system.**

The City, at any time, can terminate the retirement system and trust fund in whole or in part in accordance with, and subject to, state and federal law, this plan, applicable collective bargaining agreements, consideration of concerns submitted in writing by a designated representative of a non-bargaining unit of employees, and the following provisions:

- A. Termination of retirement system. The City can terminate the retirement system and trust fund by filing written notice of any such termination with the Board of Trustees and members. If required by law, such written notice will be provided at least 60 days (or any other period as may be required by law or regulation) prior to the date of termination.
- B. Vesting requirement. Upon termination of the retirement system, or upon termination of the system with respect to a group of members which constitutes a partial termination of the system, the accrued benefits of all members with respect to whom the system is terminated shall, as of the date of termination or partial

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termination, as the case may be, become fully vested and nonforfeitable to the extent then funded.

- C. Continued administration of retirement system pending distribution. Upon complete termination of the retirement system, the Board of Trustees will continue to administer the retirement system until distribution has been made to the members (which distribution must occur within a reasonable time after the termination of the system) with full settlement of all such benefits made by lump sum payments of the actuarial equivalent of benefits and/or through the purchase of a group annuity contract or individual annuity contracts to the extent of trust fund assets.
- D. Allocation of trust fund assets to members, spouses and beneficiaries. If the retirement system is terminated, the trust fund will be first used to fund the costs of benefits due members.
- E. Retirement system merger or consolidation. The retirement system and trust fund may not be merged or consolidated with, nor may any of its assets or liabilities be transferred to, any other plan, unless the benefits payable to each member if the retirement system was terminated immediately after such merger, consolidation or transfer would be equal to or greater than the benefits to which such member would have been entitled if this retirement system had been terminated immediately before such merger, consolidation or transfer.



ARTICLE XA  
**Deferred Compensation Plan**  
**[Adopted 6-12-1995 by Ord. No. 1590]**

**§ 2-265. Establishment.**

The City of Kalamazoo Deferred Compensation Plan ("the Plan") is hereby established.

**§ 2-266. Definitions. [Amended 6-24-1996 by Ord. No. 1620]**

As used in this article, the following terms shall have the meanings indicated:

**COMPENSATION** — All payments made by the City of Kalamazoo to a member as remuneration for services rendered.

**KMEA MEMBER** — A person employed by the City and represented by the Kalamazoo Municipal Employees Association who is properly enrolled in the Plan.

**MEMBER** — Both a nonunion member and a KMEA member.

**NONUNION DISTRICT COURT EMPLOYEE** — Those persons who work in the 9-1 District Court but are not members of a union.

**NONUNION MEMBER** — A person employed by the City who is not a member of a bargaining unit (commonly called an "exempt" employee) and who is properly enrolled in the Plan.

**§ 2-267. Participation. [Amended 5-1-2000 by Ord. No. 1700]**

- A. Commencing July 1, 1995, each person exempt member shall become a member of the plan.
- B. Commencing January 1, 1996, each person employed by the City who is represented by the KMEA, AFSCME or ATU shall become a member of the plan. **[Amended 3-6-2006 by Ord. No. 1798]**
- C. Commencing January 1, 1998, each nonsworn member of the Kalamazoo Police Officers Association shall become a member of the plan.

**§ 2-268. Contribution. [Amended 6-24-1996 by Ord. No. 1620; 2-15-1999 by Ord. No. 1667; 5-1-2000 by Ord. No. 1700; 1-8-2001 by Ord. No. 1713]**

- A. Commencing July 1, 1995, each exempt member of the plan, and the City on behalf of each such member, shall contribute to the plan. Effective March 1, 1999, the amount of each contribution shall be 1 1/2% of the compensation paid to said member by the City. Said member's contribution shall be paid via payroll deduction.
- B. Commencing January 1, 1996, each KMEA member of the plan shall contribute to the plan. The amount of the contribution shall be no less than 0.5% of the compensation paid to the KMEA member by the City. The City shall also contribute to the plan on behalf of those KMEA members who choose to contribute more than the required 0.5%. The City's contribution will be 0.5 of the sum contributed by KMEA members in excess of said 0.5%. The City's contributions shall not, however, exceed 1% of the KMEA member's compensation. On and after January 1, 2001, the amount of the contribution from each KMEA member shall be no less than 1% of the compensation paid to each such member by the City. The City's contribution will be 0.5 of the sum contributed by each KMEA member not to exceed, however, 1% of the KMEA member's compensation.
- C. Commencing January 1, 1998, each nonsworn member of the Kalamazoo Police Officers Association and the City on behalf of each such member shall contribute to the plan. The amount of each contribution shall be 1% of the compensation paid to said member. Said member's contribution shall be paid via payroll deduction.

§ 2-268  
D. The contributions required above shall not preclude the members from voluntarily contributing more, so long as that greater sum is not in excess of that permitted by law. § 2-280

**§ 2-269. Administration.**

- A. The plan shall be administered by one or more third party administrators, which shall be approved by the City Commission. If more than one administrator is offered, the member shall have the right to choose one. The City Commission may, from time to time, change the administrators.
- B. The plan shall conform in all respects (e.g., the maximum and minimum amounts which may be contributed, the nature of permissible investments, and the terms and conditions relating to the subsequent withdrawal of funds within the plan) with all applicable state and federal law, including Section 457 of the Internal Revenue Code (as it currently exists or may hereafter be amended).

**§ 2-270. (Reserved)**

**§ 2-271. (Reserved)**

**§ 2-272. (Reserved)**

**§ 2-273. (Reserved)**

**§ 2-274. (Reserved)**

**§ 2-275. (Reserved)**

**§ 2-276. (Reserved)**

**§ 2-277. (Reserved)**

**§ 2-278. (Reserved)**

**§ 2-279. (Reserved)**

**§ 2-280. (Reserved)**



ARTICLE XI  
**Issuance of Licenses and Permits Generally<sup>27</sup>**  
**[Adopted 3-15-1982 by Ord. No. 1247]**

**§ 2-281. Short title.**

This article shall hereafter be known as the "Kalamazoo Building Permit and License Fee Schedule Ordinance."

**§ 2-282. Establishment of fees. [Amended 3-28-1988 by Ord. No. 1436]**

Fees, as established by ordinance or resolution, shall be charged for each permit or license issued by the Buildings Division or Division of Public Works. In the case where a permit is required and no fee is prescribed, the Building Official or City Engineer, respectively, shall establish a reasonable fee. Any and all fees shall be paid prior to commencement of the work for which the permit is issued.

**§ 2-283. License or annual permit expiration.**

All licenses and annual permits shall expire December 31st of each year.

**§ 2-284. Double fee.**

The total fee shall be doubled whenever work is commenced prior to obtaining a permit. Annual sign fees which have not been paid within 60 days of the expiration date shall be doubled. It shall be the responsibility of the annual permit or license holder to make such payments without notice from the City.

**§ 2-285. Refunds.**

- A. A charge of 25% of the permit fee, but not less than \$5, shall be made against all permit fee refunded when the permit has been returned to the Building Division.
- B. No refund shall be made unless the permit is first returned. A charge of \$5 shall be made against all permit fees credited to another permit when that permit is for the same property.
- C. Application for refund or credit to another permit shall be requested by the permit applicant on forms provided by the Buildings Division.
- D. No refunds or credits of permit fees shall be made after 30 days from the date of issuance of the permit.
- E. The provisions of this section shall not be applicable to permits issued in error to properties located outside the City limits.

**§ 2-286. Persons engaged in certain activities or businesses must pay fee within certain time limit.**

Any person, firm, corporation or association who shall engage in any activity or business, or maintain a sign, pole, clock or ornamental light, sell liquid dispensing units, construct, add to or repair, or any building system, or structure or re-roof, wreck, move or do any other act either referred to in the established fee schedule for which a fee is listed or for which a fee is required by the building official pursuant to this article, shall pay said fee within the time limited by this article.

**§ 2-287. Penalties.**

- A. Any person, firm, corporation or association convicted of any violation of the provisions of this article shall

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27. Editors Note: At the editor's discretion, Ord. No. 1247, § 1, adopted 3-15-1982, has been codified as herein set out in Art. XI, §§ 2-281 through 2.287. Said ordinance did not expressly amend this Code.

§ 2-287 be deemed guilty of a misdemeanor, and shall, upon conviction thereof, in any court of competent jurisdiction, § 2-289  
be subject to punishment as provided in § 1-8 of this Code.

B. Any person, firm, corporation or association may be enjoined from doing any act or maintaining any condition regulated by this article for which the prescribed fee has not been paid as herein provided.

**§ 2-288. (Reserved)**

**§ 2-289. (Reserved)**

ARTICLE XII  
**Departments of the City**  
**[Adopted 9-7-1982 by Ord. No. 1268]**

DIVISION 1

Generally

**§ 2-290. Departments established. [Amended 10-17-2005 by Ord. No. 1795]**

Pursuant to § 46 of the City Charter the departments of the City, except the Department of Law, shall be as established as set forth in this section. The departments of the City shall be those funded by the City Commission as part of the City's annual budget. The functions and duties of the departments shall be those authorized or funded by the City Commission in the City's annual budget, and those subsequently assigned or authorized by the City Commission or City Manager. Unless otherwise provided in this chapter, the City Manager shall have full authority to manage and direct all departments and individuals assigned to those departments except for the Department of Law and its employees, the office of the City Clerk and its employees, and those individuals directly appointed by the City Commission and their subordinates, if any. The authority granted to the City Manager by this section shall be subject to the authority granted to the City Commission by § 46 of the City Charter, and to such subsequent ordinances and resolutions as may be duly enacted or approved by the City Commission.

DIVISION 2

Department of Public Safety

**§ 2-291. Merger of Police and Fire Departments.**

The Police Department and Fire Department, formerly existing as divisions of the Department of Public Safety, are hereby merged and consolidated in the Department of Public Safety. The Department of Public Safety shall consist of such personnel, divisions, bureaus, or offices as the City Manager (who is the Director of Public Safety by Charter) may from time to time recommend and the City Commission approve.

**§ 2-292. Department of Public Safety. [Amended 6-6-1994 by Ord. No. 1578]**

There is hereby created a Department of Public Safety, which shall have the power and authority to manage and direct all activities, facilities and personnel relating to the enforcement of laws and ordinances, and to the prevention and extinguishing of fires. The Department of Public Safety shall also be responsible for the protection of life and property, the keeping of the peace and good order, the prevention and extinguishment of fires and the management of equipment necessary therefor, the inspection of premises for fire hazards, and any and all other duties and activities related thereto.

**§ 2-293. Creation and function of Office of the Chief of Public Safety.**

The Office of Chief of the Department of Public Safety is hereby created. The operation, administration, and control of the Department of Public Safety, and all matters pertaining thereto, shall be under the control and direction of the Chief of Public Safety, who shall be appointed by, serve at the pleasure of, and be immediately responsible to the City Manager.

**§ 2-294. General powers and duties of Chief of Public Safety.**

- A. The Chief of Public Safety shall be the operating head and commanding officer of the Department of Public Safety. He shall have control of the department, under the supervision and direction of the City Manager. He shall perform such duties as may be prescribed by the Charter, any ordinances of the City, laws of the State of Michigan, and such further and other duties as shall be prescribed by the City Manager.

§ 2-294

B. The Chief of Public Safety shall have the power to issue such verbal or written orders, rules, and regulations to police officers, fire fighters, and public safety officers and employees of the Department of Public Safety as he may deem proper, and it shall be the duty of the police officers, fire fighters, public safety officers, and employees of said department to fully and completely obey his orders, rules, and regulations, but such orders, rules and regulations shall be in conformity with the law.

C. The Chief of Public Safety shall promulgate, subject to the approval of the City Manager, employment standards for police officers, fire fighters and public safety officers. Said employment standards shall at a minimum comply with those established by the Michigan Law Enforcement Officers' Training Council in accordance with 1965 PA 203, as amended.<sup>28</sup>

D. The Chief of Public Safety, or police officers, public safety officers or fire fighters designated by the Chief, shall be in command and control of any fire scene and shall have the authority to issue such verbal orders to any person at the scene as may be reasonably necessary to protect life and property and to conduct fire suppression activities.

§ 2-295. (Reserved)<sup>29</sup>

**§ 2-296. Powers and duties of police officers, fire fighters and public safety officers.**

A. Police officers and public safety officers. All police officers and public safety officers are hereby authorized to enforce the laws of the State of Michigan and the ordinances of the City of Kalamazoo and all said officers shall have the following powers and duties: To suppress all riots, disturbances and breaches of the peace and to pursue and arrest any person fleeing from justice in any part of the state and to apprehend any and all persons in the act of committing any offense against the laws of the state or ordinances of the City and to take the offender forthwith before the proper court or magistrate to be dealt with for the offense; to arrest without warrant any and all persons whom they have probable cause to believe to have committed a felony; to make complaints to the proper officers and magistrates of any person known or believed by them to be guilty of a violation of the ordinances of the City or the penal laws of the state and at all times diligently and faithfully to enforce all such laws, ordinances, rules, and regulations for the preservation of good order and public welfare as the City Commission may ordain; and to serve all processes lawfully directed or delivered to them for service; and for such purposes the said officers shall have all the powers of constables, sheriffs and other peace officers and may arrest upon view and without process any person in the act of violating any ordinance of the City or committing any offense against the laws of the state; and to have any other power or authority given to them by state law. The said officers may serve and execute all process in criminal proceedings for the violation of state law and the ordinances of the City. When any person has committed or is suspected of having committed any crime or misdemeanor within the City, or has escaped from any City jail, said officers shall have the same right to pursue, arrest and detain such person outside the City limits as the sheriff of the county.

B. Public safety officers and fire fighters. All public safety officers and fire fighters, unless designated otherwise by the Director of the Department of Public Safety, are hereby authorized to extinguish fires and the said public safety officers and fire fighters, in conformity with the ordinances of the City and the laws of the state, shall have the following powers and duties: To prevent and extinguish fires; and in so doing may cause the removal of structures or materials, the razing of walls of burning buildings, the cutting or openings in buildings, breaking and entering, breaking down of partitions, and removal of wiring, whenever, in their opinion, public safety requires that it shall be done in order to retard the fire.

C. Chief of Public Safety Department.

(1) The Chief of the Department of Public Safety, or any public safety officer or fire fighter designated by

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28. Editor's Note: See MCLA § 28.601 et seq.

29. Editor's Note: Former § 2-295, Creation of office of Deputy Chief, was repealed 10-17-2005 by Ord. No. 1795.

§ 2-296

§ 2-299

him, upon complaint of any person having an interest in any building or the premises or property adjacent thereto, or at his own instance without such complaint and without restraint or liability for trespass, may, at any hour that shall be reasonable under the circumstances involved, enter into and upon any building or premises within the City, for the purpose of inspection and examination thereof, together with their occupancies and contents, for the discovery of the existence of a fire hazard. Whenever he shall find any building or premises, either public or private, which for want of repairs, lack of or insufficient fire escapes, automatic or other fire alarm apparatus, of fire extinguishing equipment, or by reason of age or dilapidated condition, defective electrical wiring or electrical equipment, defective chimneys, defective gas connections, defective heating apparatus, accumulation of rubbish, waste materials or inflammable substances or decorations, or from any other condition or for any reason whatsoever, may cause an otherwise preventable fire or explosion or endanger other property or premises or be dangerous to the public peace, security or safety, he shall make and file a report of his findings with the Chief of Public Safety.

- (2) The Chief of the Department of Public Safety shall determine to what extent such dangerous conditions or materials shall be remedied or changed, and shall serve written notice to that effect on the owner or occupant. The service of such notice may be made upon the occupant of the premises to whom it is directed, either by delivering a copy of same to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises. Whenever it may be necessary to serve such notice upon the owner of the premises, it may be served either by delivering to and leaving with such owner a copy of the notice, or if such owner is absent from the City, by mailing such copy to the owner's last known post office address, by registered mail.
- (3) Any person who fails to comply with the provisions of a notice served pursuant to this Subsection C shall be deemed guilty of a misdemeanor.

**§ 2-297. Oath of office.**

All public safety officers shall take the constitutional oath of office after appointment, before performing any of the duties of their office. Such oath shall be in form set forth below:

"STATE OF MICHIGAN )  
 ) SS.  
 COUNTY OF KALAMAZOO) I, \_\_\_\_\_  
 do solemnly swear that I will support the Constitution and laws of the United States, and of the State of Michigan, and the Charter and ordinances of the City of Kalamazoo, and that I will, to the best of my ability, faithfully and impartially discharge the duties of the office of public safety officer for the City of Kalamazoo.  
 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_, \_\_.  
 \_\_\_\_\_  
 \_\_\_\_\_"

**§ 2-298. References in Code.**

All references in this Code to police officer or fire fighter shall hereafter mean police officer, fire fighter, or public safety officer as may be applicable. All references in this Code to Chief of Police or Chief of the Fire Department shall hereinafter mean the Chief of Public Safety. All references to Police Department or Fire Department shall hereinafter mean the Department of Public Safety.

DIVISION 3

Department of Public Services

§ 2-299  
§ 2-299. (Reserved)<sup>30</sup>

§ 2-306

§ 2-300. (Reserved)<sup>31</sup>

**§ 2-301. Appointment of officials. [Amended 10-8-1984 by Ord. No. 1335; 3-10-1986 by Ord. No. 1372; 6-6-1994 by Ord. No. 1578; 10-17-2005 by Ord. No. 1795]**

- A. Building Official. The Building Official shall be appointed by and serve at the pleasure of the City Manager or by his or her designee, and shall be assigned to a department or division as designated by the City Manager.
- B. City Planner. The City Planner shall be appointed by the City Manager after consultation with the City Planning Commission, and shall serve at the pleasure of the City Manager. The City Planner shall report to the City Manager or to his or her designee.
- C. Traffic Engineer. The Traffic Engineer shall be appointed and serve at the pleasure of the City Manager, and shall be assigned to a department or division as designated by the City Manager.
- D. City Engineer. The City Engineer shall be appointed by and serve at the pleasure of the City Manager, and shall be assigned to a department or division as designated by the City Manager.

**§ 2-302. References in Code. [Amended 3-10-1986 by Ord. No. 1372]**

Any reference to the Superintendent of Parks in the Code shall hereinafter mean the City Manager or his or her designee.

DIVISION 4

Department of Transportation

§ 2-303. (Reserved)<sup>32</sup>

§ 2-304. (Reserved)<sup>33</sup>

§ 2-305. (Reserved)<sup>34</sup>

**§ 2-306. Operating rules and regulations. [Amended 10-8-1984 by Ord. No. 1335]**

- A. The City Manager may adopt such rules and regulations for the operation of the City's motor bus transportation system as may be necessary to protect the health, safety, and general welfare, provide for the efficient operation of the bus system, provide for the safety of persons using the bus system and the public, to protect the physical facilities and assets of the bus system, or for any other necessary purpose, the same to become effective upon the approval of the City Commission.

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30. Editor's Note: Former § 2-299, Department of Public Services, amended 10-8-1984 by Ord. No. 1335 and 5-4-1987 by Ord. No. 1413, was repealed 10-17-2005 by Ord. No. 1795.

31. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-300 in its entirety which pertained to responsibility of the former Assistant City Manager of Operations for the divisions of public services and derived from Ord. No. 1268, 9-7-1982; Ord. No. 1335, 10-8-1984; Ord. No. 1372, 3-10-1986.

32. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-303 in its entirety which pertained to the creation and duties of the Department of Transportation and derived from Ord. No. 1268, § 5, 9-7-1982; Ord. No. 1335, § 4, 10-8-1984; Ord. No. 1413, § 2, 5-4-87.

33. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-304 in its entirety which pertained to the position of Director of the Department of Transportation and derived from Ord. No. 1268, § 5, 9-7-1982; Ord. No. 1335, § 5, 10-8-1984; Ord. No. 1372, § 7, 3-10-1986; Ord. No. 1413, § 3, 5-4-1987.

34. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-305 in its entirety which pertained to the position of Deputy Director of Public Transportation and derived from Ord. No. 1268, § 5, adopted 9-7-1982.

§ 2-306  
B. Any person who shall violate any rule or regulation adopted, approved and posted in accordance with this section shall be deemed guilty of a misdemeanor and punishable as prescribed in § 1-7 of this Code. In addition, the City Commission may revoke any license, permit, or other privilege granted under any of the provisions of such rules and regulations, whenever the person to whom the same was granted is convicted of violating rules or regulations. In such cases, all fees paid by such a person for such privilege shall be forfeited. § 2-314

DIVISION 5

Department of Administrative and Financial Services<sup>35</sup>

§ 2-307. (Reserved)<sup>36</sup>

§ 2-308. (Reserved)<sup>37</sup>

§ 2-309. (Reserved)<sup>38</sup>

§ 2-310. City Assessor. [Amended 6-6-1994 by Ord. No. 1578; 10-17-2005 by Ord. No. 1795]

Pursuant to Charter § 11(a), the City Assessor shall be elected by and serve at the pleasure of the City Commission and shall possess the powers and perform the duties prescribed in Charter §§ 51, 82 and 83 [except for § 51(c), which is obsolete], and shall perform such other duties as may be required of him or her by law. The City Assessor, with assigned personnel, shall be assigned to such department as the City Commission may select.

§ 2-311. City Treasurer. [Amended 6-6-1994 by Ord. No. 1578; 10-17-2005 by Ord. No. 1795]

The City Treasurer shall be appointed by and serve at the pleasure of the City Manager and shall perform the duties and functions prescribed in § 50 of the City Charter, by law or ordinance, shall be assigned to a department or division as designated by the City Manager, and shall perform such other duties as may be prescribed by the City Manager or by his or her designee.

§ 2-312. Purchasing Agent. [Amended 6-6-1994 by Ord. No. 1578; 11-29-1999 by Ord. No. 1689; 10-17-2005 by Ord. No. 1795]

The Purchasing Agent shall be appointed by and serve at the pleasure of the City Manager, shall be assigned to a department or division as designated by the City Manager, and shall perform the duties and functions prescribed in § 52 of the City Charter, by law or ordinance, and shall perform such other duties as may be prescribed by the City Manager or by his or her designee.

DIVISION 6

(Reserved)<sup>39</sup>

§ 2-313. (Reserved)<sup>40</sup>

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35. Editors Note: Ord. No. 1578, § 8, adopted 6-6-1994, created the Department of Administrative and Financial Services and the Office of Director of Administrative and Financial Services. Formerly, Div. 5, §§ 2-307—2-312 pertained to the Department of Finance.

36. Editor's Note: Former § 2-307, Department of Administrative and Financial Services, amended 6-6-1994 by Ord. No. 1578, was repealed 10-17-2005 by Ord. No. 1795.

37. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former §§ 2-308 and 2-309 in their entirety. These former sections respectively pertained to the appointment of the Director of Finance and the duties and responsibilities of the Director of Finance and derived from Ord. No. 1268, § 6, adopted 9-9-1982; Ord. No. 1372, §§ 8, 9, adopted 3-10-1986.

38. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former §§ 2-308 and 2-309 in their entirety. These former sections respectively pertained to the appointment of the Director of Finance and the duties and responsibilities of the Director of Finance and derived from Ord. No. 1268, § 6, adopted 9-9-1982; Ord. No. 1372, §§ 8, 9, adopted 3-10-1986.

39. Editors Note: Formerly Div. 6, §§ 2-313 through 2-315, pertained to the Department of Public Utilities.

§ 2-314  
§ 2-314. (Reserved)<sup>41</sup>

§ 2-319

§ 2-315. (Reserved)<sup>42</sup>

DIVISION 7

(Reserved)

§ 2-316. (Reserved)<sup>43</sup>

§ 2-317. (Reserved)<sup>44</sup>

§ 2-318. (Reserved)<sup>45</sup>

§ 2-319. (Reserved)<sup>46</sup>

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40. Editor's Note: Former § 2-313, Department of Development Services, amended 6-6-1994 by Ord. No. 1578, was repealed 10-17-2005 by Ord. No. 1795.
41. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-314 in its entirety which pertained to the position of Director of the Department of Public Utilities and derived from Ord. No. 1268, § 7, adopted 9-7-1982, and Ord. No. 1372, § 10, adopted 3-10-1986.
42. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-315 in its entirety which pertained to the position of Deputy Director of the Department of Public Utilities and derived from Ord. No. 1268, § 7, adopted 9-7-1982.
43. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-316 in its entirety which pertained to the creation of the Department of Staff Services and derived from Ord. No. 1268, § 8, adopted 9-7-1982.
44. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-317 in its entirety which pertained to the Deputy City Manager for Finance and Administration regarding his or her responsibility for the operation, administration and supervision of the Department of Staff Services. Former § 2-317 derived from Ord. No. 1268, § 8, 9-7-1982; Ord. No. 1372, § 4, 3-10-1986.
45. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-318 which pertained to the position of Purchasing Agent and assigned personnel as part of the Department of Staff Services and derived from Ord. No. 1268, § 8, adopted 9-7-1982. See § 2-312 for superseding provisions pertaining to the Purchasing Agent.
46. Editor's Note: Ord. No. 1578, § 13, adopted 6-6-1994, repealed former § 2-319 in its entirety. Former § 2-319 pertained to data processing functions as part of the Department of Staff Services and derived from Ord. No. 1268, § 8, adopted 9-7-1982.



ARTICLE XIII  
**Local Officers Compensation Commission**  
**[Adopted 9-11-1989 by Ord. No. 1472]**

**§ 2-320. Establishment.**

There is hereby established a Local Officers Compensation Commission (LOCC), which shall determine the salaries of the members of the City Commission.

**§ 2-321. Membership and appointment.**

The LOCC shall consist of seven members who shall be registered electors of the City and shall be appointed by the Mayor and subject to confirmation by the majority of the members elected and serving on the City Commission. Provided, however, that no member of the City Commission, employee of the City or member of the immediate family of either shall be a member of the LOCC.

**§ 2-322. Terms and vacancies.**

The term of office shall be seven years, except that, of the members first appointed, one each shall be appointed for terms of one, two, three, four, five, six and seven years. The first members shall be appointed within 30 days after the effective date of this article. Members other than the first members shall be appointed before October 1st of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term.

**§ 2-323. Power to determine salary of City Commission; procedure.**

The LOCC shall determine the salary of the members of the City Commission. The determination shall be the salary unless the City Commission, by resolution adopted by two-thirds of the members elected to and serving on the City Commission, rejects it. The determination of the LOCC shall be effective 30 days following its filing with the City Clerk unless rejected by the City Commission. If the determination is rejected, the existing salary shall prevail. The expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of City business and accounted for to the City.

**§ 2-324. Meetings; limitation; quorum; voting.**

The LOCC shall meet for not more than 15 session days in each odd-numbered year and shall make its determination within 45 days after its first meeting. A majority of the members of the LOCC constitutes a quorum for conducting business of the LOCC. The LOCC shall not take action or make a determination without a concurrence of a majority of the members appointed and serving on the LOCC. The LOCC shall elect a chairperson from among its members. As used in this section, "session day" means a calendar day on which the LOCC meets, and a quorum is present. The members of the LOCC shall not receive compensation but shall be entitled to actual and necessary expenses incurred in the performance of official duties.

**§ 2-325. Compliance with Open Meetings Act.**

The business which the LOCC may perform shall be conducted at a public meeting of the LOCC held in compliance with Act No. 267 of the Public Acts of 1976, being §§ 15.261 to 15.275 of the Michigan Compiled Laws (Open Meetings Act). Public notice of the time, date and place of the meeting of the LOCC shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**§ 2-326. Compliance with Freedom of Information Act.**

A writing prepared, owned, used, in the possession of or retained by the LOCC in the performance of an official function shall be made available to the public in compliance with Act. No. 442 of the Public Acts of 1976, being §§ 15.231 to 15.246 of the Michigan Compiled Laws (Freedom of Information Act).

§ 2-327

§ 2-328

**§ 2-327. Procedure for amendment.**

The City Commission shall implement this article by resolution. After one year following the date that this article goes into effect, the procedure for establishing the compensation of elected officials may be changed by Charter amendment or revision.

**§ 2-328. Provision for referendum.**

Not more than 60 days after the effective date of this article, a petition for a referendum on the article may be filed pursuant to the procedure provided by law by filing a petition with the City Clerk containing the signatures of at least 5% of the registered electors of the City on the effective date of the article. The election shall be conducted in the same manner as an election on a character amendment. If a petition for referendum is filed, a determination of the LOCC shall not be effective until the article has been approved by the electors.

**Chapter 3**  
**ADVERTISING**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Display of City flag for advertising purposes — See § 2-2.

Provisions of traffic code relative to throwing or dropping objects from vehicles — See § 36-14.

Restrictions on advertising signs at filling stations — See § 14-4.

Commercial advertising not to be displayed on parking meters — See § 36-175(f).

Use of loudspeakers or sound trucks for commercial or advertising purposes — See §§ 21-9, 21-10.

Signs — See App A, Ch. 7.

Littering — See § 22-10.

**STATUTORY REFERENCES**

False advertising -- See MSA § 28.222; MCLA § 750.33.

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**§ 3-1. Posting advertising matter on City property. [Derived from P&L Code § PL1208.6; amended 9-17-2001 by Ord. No. 1725]**

Unless expressly permitted by the City Commission, it shall be unlawful for any person to place, fasten or put, or cause to be placed, fastened or put any advertisement, poster, sign, handbill or placard of any kind upon anything belonging to the City or upon anything which exists on or in City property, including alleys, streets, parks or rights-of-way; it shall also be unlawful, unless expressly permitted by the City Commission, for any person to paint, mark, write, print or impress any sign, mark, advertisement or character of any kind upon anything belonging to the City or upon anything which exists on or in City property, including alleys, streets, parks or rights-of-way. For the purpose of this section, “place” and “put” shall not include the temporary placement of an advertisement, poster, sign, handboard or placard in manner contrary to how such an item would typically be positioned for public viewing (such as being placed horizontally or leaned with its blank side facing out) so long as said item, as placed, does not create a traffic hazard by obstructing vision.

**§ 3-2. Posting advertising matter on property of another. [Derived from P&L Code § PL1208.7; amended 9-17-2001 by Ord. No. 1725]**

Unless expressly permitted by the owner, occupant or person in lawful possession of said property, it shall be unlawful for any person to place, fasten or put, or cause to be placed, fastened or put any advertisement, poster, sign, handbill or placard of any kind upon the property of another; it shall also be unlawful, unless expressly permitted by the owner, occupant or person in lawful possession of said property, for any person to paint, mark, write, print or impress any mark, sign or other character for advertising purposes, upon the property of another.

**§ 3-3. Posting and removal of circus bills. [Derived from B&H Code § BH1202.8]**

Circus bills may be posted only on an existing sign structure or poster panel and must be removed within 10 days after the last performance advertised thereon. For the purpose of this section, the terms “sign structure” and “poster panel” shall have the meanings ascribed to them in § 29-2 of this Code.

**§ 3-4. Placing advertising matter in or on parked vehicles. [Derived from P&L Code § PL1208.8]**

It shall be unlawful for any person to place, fasten or put, or cause to be placed, fastened or put, any advertisement, handbill, poster, card, sign or other advertising matter in or upon any automobile, truck, bus or other vehicle parked or standing in or upon any of the public streets, alleys or public places of the City, without the consent of the owner of such automobile, truck or other vehicle.

§ 3-5

§ 3-9

**§ 3-5. Throwing advertising matter from vehicle or airplane. [Derived from P&L Code § PL1208.9]**

It shall be unlawful for any person to throw or scatter, from any wagon, vehicle, airplane or other conveyance, any advertising circular, card, handbill, paper or other material used solely for advertising articles for sale.

**§ 3-6. Deposit of advertising matter on streets or other public places. [Derived from P&L Code § PL1208.10]**

It shall be unlawful for any person to throw or deposit, or cause to be thrown or deposited, in any public place, street or alley, or from any store window, within the City, any paper or other matter advertising articles for sale.

**§ 3-7. Injuring, destroying, etc., structures used for advertising purposes. [Derived from P&L Code § PL1208.11]**

No person shall, in any manner, injure, molest, disturb or destroy any structure or part of a structure erected for bill posting or advertising purposes, except by order of the City Commission or City Manager, nor shall any person tear, injure or deface any paper, card, painting or other article placed on such structure for advertising purposes.

**§ 3-8. Obscene, indecent, etc., advertising. [Derived from P&L Code § PL205]**

No person shall post, place, expose to public view or distribute, within the limits of the City, any obscene, vulgar, immoral or indecent advertising matter, poster, handbill, placard, billboard, sign or other thing, for any purpose whatsoever.

**§ 3-9. False and misleading advertising. [Derived from P&L Code § PL601]**

It shall be unlawful for any person, in any newspaper, magazine, circular, form, letter, or any open publication published, distributed or circulated in the City, or on any billboard, sign, card, label or other advertising medium, or by means of any electric sign, window sign, showcase display, or by any advertising device, or by public outcry, proclamation or conversation to or with a considerable number of persons, to make or disseminate, or cause to be made or disseminated, any statement or assertion of fact in relation to modifying, explaining or in any manner concerning any merchandise offered for sale, barter or trade, or any services, professional or otherwise, offered to be furnished, which statement or assertion of fact takes the form of or has the appearance of, or which is intended to commend such merchandise or service to the public or to a considerable number of persons, and which statement or assertion is untrue in any respect or calculated to mislead or misinform.

**Chapter 4**  
**(RESERVED)**





§ 3-9

§ 3-9

**[Editor's Note: Former Ch. 4, §§ 4-6 through 4-8 and 4-20 through 4-34, which pertained to airports generally, and to solicitation therein, was repealed by § 7 of Ord. No. 1335, enacted 10-8-1984; hence, the chapter is reserved for future use. The repealed provisions derived from Adm. Code § A215.3, A215.31, A215.4, A215.5; Ord. No. 1080, § 2, enacted 3-22-1976; Ord. No. 1101, § 1, enacted 1-10-1977; and Ord. No. 1184, § 1, enacted 1-2-1980.]**

## **Chapter 4A**

### **ALCOHOLIC BEVERAGES**



§ 3-9

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 4-23-1984 by Ord. No. 1319. Amendments noted where applicable.]**

§ 3-9

**GENERAL REFERENCES**

**Illegal sales of alcoholic beverages — § 22-38.**

**Misrepresentation of age — § 22-42.**

**Open containers on City property and in Kalamazoo Mall — § 22-42.1.**

**Consumption of alcoholic beverages in public places — See § 22-57.**

**Driving while under the influence of alcohol or a controlled**

**substance — See § 36-129.**

**Open liquor containers in vehicles on highways and streets — See § 36-130.**

**Operation of snowmobiles while under influence of liquor or drugs — See § 36-202.**

**Offenses relative to taxicab drivers — § 37-72, 37-94.**



**STATUTORY REFERENCES**

**Michigan Liquor Control Code of 1998 — See MCLA § 436.1101 et seq.**



**§ 4A-1. Applicability and exemptions.**

The provisions of this chapter shall apply to all applications for approval or transfer of licenses to sell beer and wine or spirits for on-premises consumption and all renewals thereof, except for those licenses issued pursuant to the "special license" provisions of the Michigan Liquor Control Act.<sup>47</sup>

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47. Editor's Note: See the Michigan Liquor Control Code of 1998, MCLA § 436.1101 et seq.  
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**§ 4A-2. Application for approval of a new license or transfer of location; grounds for denial.**

- A. Application, filing. Applications for approval of a license to sell beer and wine or spirits for consumption on the premises or any application for approval of a transfer of such a license to a new licensee or a new location shall be made to the City Clerk in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, and shall contain the following statements and information:
- (1) The name, age and address of the applicant in the case of an individual; or, in the case of a copartnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if an aggregate of more than 5% of the stock of such corporation is owned by any one person or his nominee, the name and address of such person or persons.
  - (2) The nature of business of the applicant and, in the case of a corporation, the object for which it was formed.
  - (3) The length of time said applicant has been in business of that nature, or, in the case of a corporation, the date when its certificate of incorporation was issued.
  - (4) The location and description of the premises which is to be operated under such license.
  - (5) If the business of the applicant is to be operated or conducted by a local manager or agent, the name and address of said manager or agent.
  - (6) A statement as to whether the applicant has, prior to this application, made application for a license to sell beer and wine or spirits and the date, place and disposition of such application or applications.
  - (7) A statement that the applicant has never been convicted of a felony and is not disqualified to receive approval for a license by reason of any matter or thing contained in this chapter or the laws of the State of Michigan.
  - (8) A statement that the applicant will not violate any of the ordinances of the City of Kalamazoo or laws of the State of Michigan or of the United States in the conduct of its business.
  - (9) A statement that, should any of the information provided in his or her application or any attachment thereto change during the term of this license or any renewal thereof, the applicant will notify the City Clerk, in writing, within 30 days of such change.
  - (10) Any application for approval of a new license or for approval of the transfer of any currently valid or renewal license to a new location shall be accompanied by an 8 1/2 inch by 11 inch building and grounds layout diagram showing the entire structure, premises, and grounds and, in particular, the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.
- B. Application fee. The City Commission may establish an application fee in such amount as they deem appropriate from time-to-time to defray the reasonable costs of processing any application required by this chapter.
- C. Grounds for denial. No such license shall be approved for:
- (1) Any person, for any location which the City Commission determines, by majority vote, is unsuitable for on premises consumption of beer and wine or spirits, considering:
    - (a) The proximity of other premises licensed to sell beer and wine or spirits for on-premises consumption.
    - (b) The lack of any other facilities or uses on the premises to be licensed which are compatible with a

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license for on-premises consumption of beer and wine or spirits (e.g., restaurant, hotel).

- (c) The distance from public or private schools for minors.
  - (d) The proximity of an inconsistent zoning classification or land use.
  - (e) Traffic safety.
  - (f) The accessibility to the site from abutting roads.
  - (g) The capability of abutting roads to accommodate the commercial activity.
  - (h) Such other relevant factors as the City Commission may deem appropriate.
- (2) Any person, for premises where it is determined by a majority of the City Commission that the premises does not or will not within six months of the approval of the license by the City Commission, or prior to the commencement of business, whichever occurs first, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control. Provided, however, that upon timely request and for good cause shown, the City Commission may extend any deadline established by this section.
  - (3) Any person, for any premises which does not comply with the applicable building, electrical, mechanical, plumbing, or fire codes, applicable zoning regulations, or applicable public health regulations; provided, however, the City Commission may approve an application subject to compliance with the applicable codes and regulations within 60 days.
  - (4) A person who does not own the premises for which the license approval is sought or does not have a lease therefor for the full period for which the license is to be issued.
  - (5) Any law enforcing public official or any member of the City Commission, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale, or distribution of alcoholic liquor.
  - (6) Any person, corporation, or copartnership which, at the time of application for such approval, transfer, or renewal, is delinquent in the payment of any taxes, fees, or other charges owed to or collected by the City of Kalamazoo.
  - (7) A person whose license under this chapter has been revoked for cause within the last two years.
  - (8) A copartnership, unless all of the members of such copartnership shall qualify for approval of a license.
  - (9) A corporation, if any officer, manager, or director thereof, or a stock owner or stockholders owning in the aggregate more than 5% of the stock of such corporation, would not be eligible to receive approval for a license hereunder for any reason.
  - (10) A person whose place of business is operated or conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
  - (11) A person who has been convicted of a violation of any federal or state law concerning the manufacture or sale of alcoholic liquor.
  - (12) Any person based upon such other relevant factors as the City Commission may deem appropriate.

**§ 4A-3. Available licenses; selection among qualified applicants.**

When any such license shall be available for issuance to a new applicant, either by lapse of a current license or by the authorization and allocation of additional licenses to the City of Kalamazoo, and there exist more qualified applicants for said license or licenses than the number of new licenses available for issuance, the City Commission shall choose the most qualified applicant(s) for approval based upon the following criteria:

- A. The location of the proposed new business and its desirability in light of its location, the preferability of locations in the central business district as opposed to outlying locations, the surrounding land uses, and its proximity to other premises licensed for on-premises consumption;
- B. The experience of the applicant;
- C. The other uses proposed to be included on the premises or in the development (e.g., restaurant, motel);
- D. The cost and size of the overall project and number of new jobs to be created by the new business;
- E. The relative suitability of the design and size of the new business to the property on which it is proposed to be located, as evidenced by any building and grounds layout diagram required to be submitted with the application;
- F. The overall development or redevelopment of the City; and
- G. Such other relevant factors as the City Commission may deem appropriate.



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**§ 4A-4. Term of license approval; conditional approval.**

Approval of a license shall be for a period of one year with renewal subject to the provisions of § 4A-5 below. Approval of a license shall be upon the condition that any necessary remodeling or new construction for the use of the license required by the City Commission or indicated on the building and grounds layout diagram submitted pursuant to § 4A-2A(10) above shall be completed within six months of the approval of the license by the City Commission, or prior to the commencement of business, whichever occurs first. Provided, however, that upon timely request for good cause shown, the City Commission may extend the remodeling or new construction deadline established by this section. Approval of a license shall also be upon the condition that any work on the premises necessary to comply with the applicable codes and regulations in § 4A-2C(3) above be completed within 60 days of City Commission approval of the license.



**§ 4A-5. Objections to license renewal and requests for revocation.**

- A. Criteria for nonrenewal or revocation. The City Commission may recommend nonrenewal or revocation of a license to the Liquor Control Commission upon a determination by the City Commission that, based upon evidence presented at a hearing, any of the following exist:
- (1) Violation of any of the grounds for denial set forth in § 4A-2C(1) through (11) above.
  - (2) Maintenance of a nuisance upon the premises.
  - (3) Failure to complete necessary remodeling and/or new construction as required by § 4A-4 above or to complete, within six months of the approval of the license by the City Commission (or any extension thereof), or prior to the commencement of business, whichever occurs first, any construction contemplated in the building and grounds layout diagram submitted pursuant to § 4A-2A(10) above.
  - (4) Failure to complete any work on the premises necessary to comply with the applicable codes and regulations in § 4A-2C(3) above within 60 days of City Commission approval of the license.
  - (5) Failure to comply with the requirements of the Michigan Liquor Control Act<sup>48</sup> or the Administrative Rules of the Liquor Control Commission.
  - (6) Failure to comply with any of the requirements of this chapter.
  - (7) The violation of any law or ordinance in the conduct of its business.
  - (8) The failure to comply with promises or representations made by the applicant to the City Commission or any conditions imposed upon the applicant as a basis for the approval.
- B. Procedure. Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the City Commission shall serve the licenseholder, either personally or by first-class mail, with a notice of hearing, which notice shall contain the following:
- (1) Notice of the proposed action.
  - (2) Reasons for the proposed action.
  - (3) Date, time, and place of hearing.
  - (4) A statement that the licensee may present evidence and testimony, confront adverse witnesses, and may be represented by counsel.
- C. The City Commission may delegate to a hearing officer the function of holding the hearing. The hearing officer shall thereafter submit his or her findings and recommendation to the Commission. The licensee may, at his or her expense, employ a reporter to transcribe the testimony given at the hearing and make a transcript of said testimony. Following the hearing, the City Commission shall submit to the licenseholder and the Michigan Liquor Control Commission a written statement of its findings and determination.

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48. Editor's Note: See the Michigan Liquor Control Code of 1998, MCLA § 436.1101 et seq.  
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**§ 4A-6. Social districts and commons area. [Added 8-3-2020 by Ord. No. 2011]**

- A. Pursuant to the authority granted by Public Act 124 of 2020, the City Commission may designate by resolution social districts and commons areas, which shall be clearly marked with appropriate signage, within a social district.
- B. The creation of a commons area shall include the adoption of a management and maintenance plan, which may be amended as necessary, for the protection of the health and safety of the community and includes, but is not limited to, limitations on the hours of operation for a commons area.
- C. Except as provided by state law, the holder of a social district permit issued by the Michigan Liquor Control Commission may sell alcoholic liquor for consumption within the confines of a commons area if both of the following requirements are met:
- (1) The holder of the social district permit only sells and serves alcoholic liquor on the holder's licensed premises;
  - (2) The holder of the social district permit only serves alcoholic liquor to be consumed in the commons area in a container to which all of the following apply:
    - (a) The container prominently displays the social district permittee's trade name or logo or some other mark that is unique to the social district permittee's on-premises license;
    - (b) The container prominently displays a logo or some other mark that is unique to the commons area;
    - (c) The container is not glass; and
    - (d) The container has a liquid capacity that does not exceed 16 ounces.
- D. A purchaser may remove a container of alcoholic liquor sold by a holder of a social district permit from the social district permittee's licensed premises if all of the following conditions are met:
- (1) The purchaser does not remove the container from the commons area;
  - (2) The purchaser does not possess the container in a motor vehicle; and
  - (3) While possessing the container, the purchaser does not enter the licensed premises of a social district permittee other than the social district permittee from which the purchaser purchased the container.
- E. The consumption of alcoholic liquor from a container in a commons area as allowed under this section may only occur during the hours established by the management and maintenance plan for the commons area.
- F. This section is to be strictly construed as a limited exception to, and not in conflict with, §§ 22-42.1 and 22-57 of the Kalamazoo City Code, which generally prohibit the public consumption and possession of open containers of liquor and alcoholic beverages.
- G. A purchaser of alcoholic liquor violating the restrictions set forth in this section is guilty of misdemeanor punishable by a fine of up to \$500 and associated court costs.
- H. As used in this section:
- (1) "Commons area" means an area within a social district clearly designated and clearly marked in accordance with a resolution adopted by the City Commission and which is shared by and contiguous to the premises of at least two qualified licensees.
  - (2) "Qualified licensee" means a retailer that holds a license, other than a special license, to sell alcoholic liquor for consumption on the licensed premises; and a manufacturer with either: a) an on-premises tasting room permit, b) an off-premises tasting room license, or c) a joint off-premises tasting room

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license.

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- I. The City Commission reserves the ability to revoke the social district designation if it determines that the activities within or existence of the commons area threatens the health, safety, or welfare of the public or has become a public nuisance. Before revoking the designation, the City Commission will hold at least one public hearing, the time and place thereof which shall be noticed as required by the Open Meetings Act, MCLA § 15.261 et seq., on the proposed revocation.
- J. The City Clerk is authorized and directed to file this section and any resolutions setting forth the designation of the social district and commons areas along with the management and maintenance plans adopted pursuant to ordinance with the Michigan Liquor Control Commission.
- K. This section sunsets and shall be of no further legal effect after December 31, 2024.

**Chapter 5**  
**(RESERVED)**



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**[Editor's Note: Ord. No. 1316, § 1, adopted 3-12-1984, repealed former Ch. 5, §§ 5-1 through 5-6, relative to ambulances. Said repealed provisions formerly derived from P.S. Code §§ PS800.1 through PS800.5.]**  
**Chapter 6**

**(RESERVED)**



§ 4A-6

**[Former Ch. 6, Amusements, which consisted of Art. I, In General, derived from P&L Code §§ PL1001.1 to PL1001.3, and PL1001.6, as amended; reserved Arts. II and III; Art. IV, Billiard, Pool, Bagatelle and Pigeonhole Tables, derived from P&L Code § PL1102, as amended; reserved Art. V; and Art. VI, Public Dances, derived from P&L Code § PL1105, as amended, was repealed 5-21-2018 by Ord. No. 1966.]**

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**Chapter 7**

**ANIMALS AND FOWL**



§ 4A-6

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 10-6-1997 by Ord. No. 1641.<sup>49</sup> § 4A-6 Amendments noted where applicable.]**

#### GENERAL REFERENCES

County rabies control ordinance adopted — See § 1-6B(5).

Nuisances generally — See § 22-3 et seq.

Appearance tickets — See § 1-8.1.

Dead animals and fowl not to be deposited for collection by City — See § 31-18A(4).

Department of Public Safety — See § 2-291 et seq.

Application of traffic regulations to persons riding animals or driving animal-drawn vehicles — See § 36-22.

Noisy animals and fowl — See § 21-15.

#### STATUTORY REFERENCES

Dog law — See MSA § 12.511 et seq.; MCLA § 287.261 et seq.

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49. Editor's Note: This ordinance repealed former Ch. 7, derived from P&L Code §§ PL801 through PL818, as amended.



**ARTICLE I**  
**In General**

**§ 7-1. Purpose and intent.**

The purposes of this chapter are to promote the public health, safety and general welfare of the citizens of the City of Kalamazoo and to ensure the humane treatment of animals by regulating the care and control of animals within the City.

**§ 7-2. Enforcement.**

- A. This chapter shall be enforced by the Public Safety Department of the City and the animal control officer of the county and any of his/her deputies. They are hereby authorized and empowered to serve a summons for a violation of this chapter, as provided by § 1-8 of this Code, and to issue and serve appearance tickets in lieu of a summons for said violation.
- B. It shall be unlawful for any person to interfere with, prevent or hinder any public safety or animal control officer in the enforcement of this chapter or the performance of any act required or authorized by this chapter.

**§ 7-3. Definitions. [Amended 11-15-2004 by Ord. No. 1779]**

When used in this chapter, the following words and terms shall mean:

**ANIMAL** — Any live creature, both domestic and wild. This shall include fowl, fish and reptiles.

**AT LARGE** — An animal that is off the premises of the owner and not on a leash or otherwise under immediate control.

**DOMESTIC ANIMAL** — Includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants, and other birds or animals raised and/or maintained in confinement.

**EXOTIC/WILD ANIMAL** — Any undomesticated animal or any dangerous animal normally classified as wild. In addition, this specifically includes, but is not limited to, the following animals: non-domestically bred parrots, parakeets or other exotic birds, Canada geese, alligators, bears, birds of prey, monkeys, panthers, cougars, lions, wolves, coyotes, chimpanzees, venomous or constrictor reptiles, and wild felines. In addition, it shall include any hybrid between a wild animal and a domesticated animal, such as a hybrid between a dog and a wolf, a dog and a coyote, a cat and a bobcat, or other wild feline.

**NUISANCE** — Includes, but is not limited to, any animal which makes/creates habitually disturbing noises, foul or offensive odors, unsanitary conditions, or chases pedestrians, bicycles or motor vehicles.

**OWNER** — Any person having temporary or permanent custody of, sheltering or having charge and control of any animal covered by this chapter.

**VICIOUS AND DANGEROUS ANIMAL** — Any animal that attacks, bites or physically injures a human being or other animal without provocation.

**§ 7-4. Permit to keep pet swine.**

No person shall keep, upon any premises within the City limits, any swine whatever, without a special permit from the City Commission or its designee, which permit shall be granted only upon the written application of the person desiring the permit. Such application shall specify the location of the premises upon which the swine are proposed to be kept and the number desired to be kept. Such permit, if granted, shall state the location of the premises and the number of swine allowed to be kept, and it shall be unlawful to keep such swine upon any other premises or to keep any greater number than specified in the permit.

§ 7-5

§ 7-9

**§ 7-5. Keeping of rabbits and poultry.**

It shall be unlawful for any person to keep any rabbits, chickens, ducks, geese or other poultry within the limits of the City, unless the same are kept in a sanitary condition, free of offensive odors, and in an enclosed yard or coop which shall be located not less than 30 feet from the street line or any adjacent property line.

**§ 7-6. Keeping of horses and other farm animals.**

- A. It shall be unlawful for any person to keep or harbor or own any horse, mule, ass, sheep, goat, cow or other farm animal not subject to the provisions of §§ 7-4 and 7-5 of this chapter within the limits of the City unless the same are kept in a lot at least two acres in size and unless the same are kept in a sanitary condition, free of offensive odors and provided that such animal is kept in an area which is totally enclosed with a suitable fence or enclosure to prevent the animal from running at large. Exceptions to any of these requirements shall only be by written permission from the Chief of Public Safety. Horses or similar animals which are kept or used as part of a commercial operation on a seasonal basis within the City and are used to pull carriages or conduct similar activities shall not be subject to the requirement that they be kept in a lot at least two acres in size; provided, however, that the animals are kept in a sanitary condition and in an area which is enclosed with a fence or other enclosure to prevent the animal from running at large. No person shall keep or harbor or own within the City more than two animals described in this subsection.
- B. No horse, mule, ass, swine or other farm animal, including poultry, shall be permitted to run at large anywhere within the City limits. The owner or harbinger of any animal or fowl running at large in violation of this section shall be deemed guilty of violating this section.

**§ 7-7. Exotic/wild animals.**

It shall be unlawful for any person, other than a publicly maintained and supervised zoo or zoological garden, a licensed and authorized circus, an accredited and licensed educational institution, or an accredited and licensed medical or pharmaceutical laboratory maintained and operated by a corporation, firm, hospital, or health maintenance organization in which there is a laboratory for the primary benefit of human health care, to keep and maintain, or permit to be kept or maintained, any exotic or wild animal as deemed in § 7-3, "exotic/wild animal."

**§ 7-8. Animals at large.**

- A. Subject to the other articles of this chapter, it shall be unlawful for any owner to permit an animal to be at large as deemed in § 7-3, "at large."
- B. The City shall not be responsible for damages done by any animal which is found at large as deemed in § 7-3, "at large."
- C. Any animal found running at large in the City in violation of this section may be captured and turned over to the custody of Kalamazoo County Animal Control. It shall be the duty of the Public Safety Department or Kalamazoo County Animal Control to take and detain any animal running at large anywhere within the limits of the City as defined in § 7-3, "at large.". The owner of such animal shall be required to pay all charges or costs of such detention as required by law.

**§ 7-9. Hunting and trapping.**

No person shall hunt or trap wildlife at any time within the City limits, except with the approval of the City Manager or Chief of Public Safety, nor shall any person carrying a firearm or hunting weapon trespass upon the land of another in the City without the landowner's consent. This prohibition shall not apply to the trapping of rats, mice and moles, and shall not apply to the humane live trapping of squirrels, raccoons, chipmunks, and other wild or domestic animals which may be causing damage to property or which constitute a nuisance within a dwelling or building or structure or curtilage within the City. The selling for commercial purposes of such animals which

§ 7-9 have been trapped or the offering for sale or the keeping for sale for commercial purposes of such animals which § 7-17 have been trapped is prohibited. The disposal of such animals which have been live-trapped shall be to release such animals in the natural habitat of such animals. This prohibition shall not apply to a law a enforcement officer when acting to enforce the law or to control or dispose of dangerous or seriously injured wild or domestic animals.

**§ 7-10. Combat between animals and humans.**

It shall be unlawful for any person to cause or permit any combat between animals and humans. "Combat" herein is defined as any physical fight, struggle or contest and shall include, but is not limited to, the following: bear wrestling or fights or wrestling between humans and other animals. It shall be unlawful for any person to obtain the use of a building, shed, room, yard, ground, or premises, or to rent said premises for the purpose of allowing or causing any combat between animals and humans. It shall be unlawful for any person to knowingly permit the use of a building, shed, room, yard, ground, or premises belonging to him or her under his or her control for any of the purposes set forth in this section.

**§ 7-11. Nuisance.**

It shall be unlawful for any owner to keep any animal which causes a public nuisance as defined in § 7-3.

**§ 7-12. Dangerous animals.**

It shall be unlawful for any person to own or harbor any vicious or dangerous animal as defined in § 7-3.

**§ 7-13. Abandonment. [Added 11-15-2004 by Ord. No. 1779]**

It shall be unlawful for any person to abandon animals within the City.

**§ 7-14. (Reserved)**

**§ 7-15. (Reserved)**

**§ 7-16. (Reserved)**

**§ 7-17. (Reserved)**





ARTICLE II  
**Dogs**

**§ 7-18. License and tag.**

- A. It shall be unlawful for any person to own or keep a dog six months old or older within the City, unless such dog is licensed as required by state law.
- B. It shall be unlawful for the owner of any dog six months old or older to permit such dog to be off the premises of the owner, unless it is wearing a collar or harness to which is attached a current license tag as required by state law.
- C. It shall be unlawful for any person, except the owner or his authorized agent, to remove any collar, harness or license tag from a dog.

**§ 7-19. Dogs running at large.**

- A. It shall be unlawful for the owner of any dog to permit such dog to be off the premises of such owner, including but not limited to private roads open to the general public and the common areas of multiple dwellings and trailer parks, unless the dog is held securely on a leash.
- B. This section shall not apply to working dogs, such as leader dogs, guard dogs, farm dogs, hunting dogs and other dogs, when accompanied by their owner or his authorized agent, while actively engaged in lawful activities for which such dogs are trained. This section shall not apply to dogs which are under the immediate control of the owner and provided the owner is in the immediate proximity to the dog. Should a dog while not on a leash attack, chase, or bite another human or animal, it shall be presumed that the dog is not under the immediate control of the owner, and that therefore there is a violation of this section.

**§ 7-20. Female dogs in heat.**

No person who is the owner of any female dog shall knowingly permit her to run at large while in heat.

**§ 7-21. Vicious or dangerous dogs.**

It shall be unlawful for any person to own or harbor any vicious or dangerous dog as defined in § 7-3.

**§ 7-22. Procedure when dog bites person/animal.**

The owner of any dog which has bitten a human or other animal shall immediately place and keep such dog on a leash, even though it remains on the owner's property and shall immediately notify the Public Safety Department or County Animal Control of all facts known to the owner regarding the incident. The owner shall keep the dog continually under secure quarantine and under such supervision and control as may be required by the Public Safety Department or Animal Control or shall turn the dog over to the care and custody of Animal Control for impoundment until such time as Animal Control and the Health Department determine it is safe to release the dog, at which time all costs for the dog's care shall be paid by the owner to Animal Control.

**§ 7-23. Nuisance.**

It shall be unlawful for any person to own or harbor any dog which commits a nuisance as deemed in § 7-3.

**§ 7-24. Limitation on number of dogs.**

It shall be unlawful to own, possess, shelter, keep, harbor or permit to remain on or in a dwelling unit as that term is deemed in the City of Kalamazoo Zoning Ordinance (Appendix A of the Kalamazoo City Code) or on the surrounding lot or premises within the City more than three dogs at any one time unless said owner or owners

§ 7-24 obtains a kennel license pursuant to state law, except that the owner of a female dog which has given birth to puppies may keep the dog and puppies for a period not to exceed three months from the date of birth of the litter. This limitation shall not apply to a veterinarian or a licensed commercial pet shop. § 7-33

**§ 7-25. Dogs in certain public parks.**

When signs are conspicuously erected or placed in any public park within the City reading "NO DOGS IN THIS PARK," no person shall allow or permit any dog to be in or upon any area of said park whether leashed or not.

**§ 7-26. Impoundment.**

- A. Any member of the Public Safety Department of the City or any animal control officer of the county shall have the power and duty to seize and hold any dog whether licensed or unlicensed, which is found off the premises of its owner in violation of this article.
- B. Any member of the Public Safety Department of the City or any animal control officer of the county shall have the power and duty to seize and hold any dog required under this article to be wearing a collar or harness with a current license, when said dog is not wearing a collar or harness with a current license.
- C. The authority and duty to seize and hold a dog under this section shall include, but is not limited to, the pursuit of said dog onto private property for the purposes of capture.
- D. Dogs seized and held under this section shall be held at the county's dog pound and shall be disposed of under the rules and regulations adopted by the county's animal shelter, including but not limited to payment of fees, hours of operation, licensing and care of said dog's health.

**§ 7-27. Removal/Disposal of dog feces. [Added 6-4-2007 by Ord. No. 1828]**

- A. A person in control or possession of a dog shall promptly, lawfully, and in a sanitary manner remove and dispose of any feces deposited by the dog on public or private property, other than when on the property owned or controlled by said person or the dog's owner, or when the owner of property expressly waives this requirement.
- B. This section shall not apply to a service or guide dog when under the control or possession of a blind or physically limited individual.
- C. Violation of this section shall constitute a civil infraction. A person convicted of a violation of this section shall be punished by a fine of \$100 for a first offense and \$200 for an offense committed within two years of a previous conviction for a violation of this section.

**§ 7-28. (Reserved)**

**§ 7-29. (Reserved)**

**§ 7-30. (Reserved)**

**§ 7-31. (Reserved)**

**§ 7-32. (Reserved)**

**§ 7-33. (Reserved)**

ARTICLE III  
**Cats**

**§ 7-34. Keeping cats in a greater number than can be cared for in a sanitary and proper manner.**

It shall be unlawful for any person to possess, harbor, shelter, or keep adult cats in a greater number than can be cared for in a sanitary and proper manner, or in a manner that because of the number of such cats, such cats create a nuisance as defined in § 7-3 of this chapter, or in a manner that because of the number of such cats, such cats constitute a threat or danger to the surrounding environment, including native wildlife and the property of surrounding property owners. An adult cat, for purposes of this section, shall be a cat over six months of age.



**Chapter 8**  
**AUCTIONS**



§ 7-34

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 3-11-1985 by Ord. No. 1344.<sup>50</sup> § 8-3 Amendments noted where applicable.]**

**GENERAL REFERENCES**

Use of drum or other device to attract attention to auctions — See § 21-13.

**STATUTORY REFERENCES**

Auctioneers — See MSA §§ 19.551 — 19.560 (MCLA Sales at public auction — See MSA §§ 19.565(1) — 19.565(10) (MCLA §§ 446.26 — 446.35). §§ 446.51 — 446.60).

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**§ 8-1. (Reserved)**

**§ 8-2. (Reserved)**

**§ 8-3. Prohibited on public grounds.**

It shall be unlawful for any person to sell, or offer to sell, at public auction, any articles, goods, wares, or merchandise upon any street, alley, sidewalk, or other public ground within the City.

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50. Editor's Note: Section 12 of Ord. No. 1344, enacted March 11, 1985, repealed former §§ 8-1, 8-2, and 8-4—8-53, which sections, with the exception of § 8-3, comprised Ch. 8. The repealed provisions, which pertained to auctions generally, auctioneer's licenses and sale licenses, derived from P&L Code, §§ PL1001.1, PL1001.3, PL1001.4, PL1001.6, PL1001.8, PL1001.9, PL1203.1—PL1203.4, and PL1203.6—PL1203.17.





**Chapter 9**

**BUILDINGS AND BUILDING REGULATIONS**



§ 8-3

**[HISTORY: Adopted by the City Commissioners of the City of Kalamazoo as indicated in histories. Amendments noted where applicable.]**

§ 8-3

**CHARTER REFERENCES**

**Authority of City Commission relative to licenses — See § 165.**



**GENERAL REFERENCES**

- Authority of Building Officials to serve summons for Code violations — See § 1-8B.**
- Advertising — See Ch. 3.**
- Filling stations — See Ch. 14.**
- Restrictions on advertising signs at filling stations — See § 14-4.**
- Fire prevention and protection — See Ch. 15.**
- Appeals to Construction Board of Appeals from decisions made under Fire Prevention Code — See § 15-46.**
- Historic districts — See Ch. 16.**
- Powers and duties of Historic District Commission relative to construction, alteration or repair of structures in historic district — See §§ 16-22, 16-23.**
- Housing code — See Ch. 17.**
- Discrimination in real estate transactions — See § 18-17 et seq.**
- Design standards at Kalamazoo Mall — See § 19-4.**
- Construction noises — See § 21-20.**
- Impersonating City inspectors — See § 22-23.**
- Wastewater discharge regulations and enforcement procedures — See Ch. 28.**
- Soil erosion and sedimentation control — See Ch. 30.**
- Authority of Building Board of Appeals under Soil Erosion and Sedimentation Control Ordinance — See § 30-12.**
- Solid waste — See Ch. 31.**
- Building materials not to be deposited for collection by the City — See § 31-18.**
- Special assessments for public improvements — See Ch. 32.**
- Swimming pools — See Ch. 34.**
- Water — See Ch. 38.**
- Meters for water used during construction operations — See § 38-13.**
- Use of water pipes as electrical grounds — See § 38-17.**
- Zoning Ordinance — See App. A.**
- Provisions of zoning ordinance relative to signs — See App. A, Ch. 7.**
- Land Subdivision Standards Ordinance — See App. B.**



**STATUTORY REFERENCES**

**For further authority to adopt by reference — See MSA § 5.2073; § 125.1501 et seq.  
MCLA § 117.3.**

**Appeals to local Board of Appeals — See MSA § 5.2949; MCLA  
Stille-DeRossett-Hale Single State Construction Code Act — See MCLA § 125.1514.**





## ARTICLE I

## In General

[B&H Code §§BH103, BH204, BH221, BH706 — BH708, BH1001 — BH1009; amended 4-28-1980 by Ord. No. 1196; 11-3-1986 by Ord. No. 1392; 1-25-1987 by Ord. No. 1429; 12-4-1989 by Ord. No. 1479; 6-29-1992 by Ord. No. 1535; 3-4-1996 by Ord. No. 1611; 11-16-1998 by Ord. No. 1663; 6-19-2006 by Ord. No. 1804; 9-16-2019 by Ord. No. 1999]

**§ 9-1. Purpose and definitions.**

A. Purpose. The purpose of this chapter is to establish codes and standards regulating the safety, sanitation and general public welfare as they are affected by construction, maintenance, wrecking and/or moving of all types of structures in the City.

B. Definitions.

(1) As used in this chapter, the following terms shall have the meanings indicated:

**BUILDING OFFICIAL** — Refers to the individual described in § 2-301 of this Code and as described in the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended. The term "Building Official" shall mean the Building Official or his authorized representative.

**BUILDINGS DIVISION or HOUSING SECTION** — The department and/or division responsible for enforcement and oversight of all or part of the provisions of this chapter.

**EQUIPMENT** — Any plumbing, heating, electrical, ventilating, air conditioning, refrigerating, and fire protection equipment, and elevators, dumbwaiters, escalators, boilers, pressure vessels and other mechanical facilities or installations that are related to building services. Equipment or fixture shall not include manufacturing, production, or process equipment, but shall include connections from building service to process equipment.

**INTERIOR DEMOLITION** — Is the process of removing the interior building components of a structure. This type of demolition consists of removing select items or removing all items and leaving the shell of a building.

(2) Where the possessive pronoun "his" is used in this chapter, it shall mean "his or her."

**§ 9-2. Boarding up of buildings — limitation on time.**

No person shall permit any building to be boarded up in the City for a period of longer than six months. Such period of six months may be extended by the Building Official upon filing, by the owner or other person responsible for the premises, of applications for required permits to comply with the ordinances of the City, along with a letter of intent describing what repairs are to be made and a detailed schedule indicating when they are to be completed.

**§ 9-3. Same — method.**

Any boarding up of openings in a building within the City shall be done with plywood of minimum thickness of 1/2 inch, free of holes. It shall fully cover each opening and be securely fastened. All exposed edges and surfaces shall be painted.

**§ 9-4. Unsafe equipment.**

Equipment that becomes unsafe, insanitary or deficient because it may constitute a fire hazard or is otherwise dangerous to human life or the public welfare, or that involve inadequate maintenance, shall be deemed a violation of this chapter. Unsafe equipment shall be removed or made safe, as the Building Official deems necessary and as provided for in this section.

**§ 9-5. Violation; penalty.**

- A. The City of Kalamazoo may charge any person who violates any section of this chapter with a municipal civil infraction, unless the section specifically states otherwise.
- (1) The civil fine for a violation of this chapter shall be not more than \$200.
  - (2) A second or subsequent violation of this chapter committed by an individual who has been previously adjudicated responsible for a violation of this chapter within a previous twelve-month period may be fined a minimum fine of \$200 but not more than \$500.

**§ 9-6. Special permits, licenses, fees and conditions.**

- A. Permits and fees associated with this chapter are generally regulated by provisions described in Chapter 2, Article XI, of the City Code of Ordinances. Unless noted to the contrary in this chapter, the fees for all permits issued under all articles of this chapter shall be set by resolution by the City Commission.
- B. The following structures and/or work not specifically addressed in other articles of this chapter require building permits. Unless a permit fee for the structure(s) and/or work is noted in a current permit fee resolution, the fee will be calculated on the same basis as used for residential alteration work:
- (1) Freestanding television reception towers; satellite antenna; radio broadcast and reception towers, freestanding and roof-mounted.
  - (2) Interior demolition work when not done as part of the work of a building permit.
- C. Special inspection and reinspection fees may be charged under the following conditions:
- (1) When a request is made to the Buildings Division for a partial occupancy certificate for a building, an inspection fee may be charged for each inspector required in addition to any other fee prescribed in this chapter.
  - (2) A fee shall be charged for any inspection performed under this chapter.
  - (3) All inspection and reinspection fees must be paid in advance for any special inspection of an existing commercial or residential property requested by the Federal Housing Administration, the Veterans Administration, a lending institution, a realtor, property owner or prospective property purchaser.
- D. Other permits which are applied for, issued through and fees for the same collected by the Buildings Division for work and conditions not regulated by this chapter include:
- (1) Related to Appendix A, Zoning Regulations, City Code of Ordinances:
    - (a) Environmental permit for parking area development when not a part of construction work included in a building permit (parking lots, loading areas, outdoor sales lots) or other general grading and filling when less than one acre in area.
    - (b) Environmental permit for paving an existing parking area when not a part of construction work included in a building permit (parking lots, loading areas, outdoor sales areas). Environmental permit for building use change which involves no work requiring a building permit (business and residential uses as defined in the Zoning Ordinance and in the building code).
    - (c) Environmental permit for any site grading, filling, improvements and/or construction in a flood fringe or floodway as identified by the Federal Management Agency, National Flood Insurance Program.
    - (d) Sign permits of any type.

- § 9-6 (2) Related to soil erosion and sedimentation control, Chapter 30, City Code of Ordinances: any grading or filling work on one acre or more for any reason. A soil erosion permit and bond are required for such work in addition to any other permits associated with the improvement. § 9-6
- E. Other permits or approvals applied for through other City departments, but which may be required before a building permit may be issued:
- (1) Applied for through the Department of Public Safety:
    - (a) Storage tanks for hazardous materials, above and in ground.
    - (b) Any general plan review and approval required by Chapter 15, Fire Prevention and Protection. Permit and/or approval will be requested through and approved by the Public Safety Department. Fees are paid through the Buildings Division.
  - (2) Applied for through the Public Services Department, or such department as the City Manager may designate:
    - (a) Curb cuts from street across City property and drainage of stormwater off of developed property, including any change in existing conditions. Approval is required by the Public Works Division before any permits related to such work can be issued by the Buildings Division.
    - (b) Any type of construction on or projecting over property owned by the City. Approval is required from the City Commission but secured through the Department of Public Services. This approval is required before any permits associated with the work can be issued by the Buildings Division.
- F. Permits of approvals required by non-City agencies:
- (1) Towers and any construction over 50 feet high; or any construction within a 1/2 mile of the county airport may require approval by the Federal Aviation Administration, Kalamazoo County Airport.
  - (2) Any site grading, filling or other construction in a flood-fringe or floodway area requires a permit from the State of Michigan, Department of Natural Resources, Engineering-Water Management Division, or its successor agency.
  - (3) Any work including construction and/or demolition which involves toxic wastes (toxic liquids, unknown chemicals in any form) requires clearance by the State of Michigan, Department of Natural Resources, or its successor agency. This affects all construction permits and wrecking permits.
  - (4) Any construction on a site which does not have public water or sewage disposal requires the approval of the Kalamazoo County Health Department.
- G. An annual electrical permit may be obtained by a firm or corporation or person authorized by the firm or corporation to cover installations or minor alterations, each normally requiring a separate electrical permit, performed on or within the firm or corporation's own facilities. The firm or corporation obtaining such a permit must employ one or more electrical journey persons or master electricians or contract work regularly with one such trade person or firm employing such trade person to do the electrical work. The annual permit shall be issued subject to the following conditions:
- (1) The journey person or master electrician so employed shall register their state licenses with the Building Division annually.
  - (2) The annual permit shall be applicable and limited to work performed on the premises described on the permit.
  - (3) The annual permit shall not be applicable to new buildings or additions until an occupancy permit for the new construction has been issued by the Buildings Division.

- § 9-6 (4) The holder of the annual permit shall, upon the request of the Building Official, allow inspection of the premises to assure that all work is in accordance with the electrical code as contained in this chapter. § 9-7
- H. Temporary electrical service permits may be issued for a time period of six months only, unless special arrangements are made with the Building Official, and shall be subject to renewal application to the Buildings Division if still required after the expiration date.
- I. Permits for emergency work of all types described in this chapter, when the emergency occurs on Saturday, Sunday or City-employee holidays, shall be secured from the Buildings Division within 24 hours of the next opening of the division offices for official business following the emergency.
- J. Any person, firm or corporation may perform minor repair work on all construction and/or devices covered by all of the articles of this chapter on their own property without having secured a permit or license, including such work which is being done to correct code violations posted on said property by the Buildings Division or Housing Section within the time limits stated in the violations notice. When such minor repair work is being done after the specified time limits for correction in a violation notice, permits will usually be required. This permission shall not extend to connections between utility supply systems and the distribution systems on the premises. For this latter work, a permit must be obtained, and a licensed contractor used. This permission also shall not extend to work which modifies or changes structural elements, window replacement work and glazing work. Such work will require permits and may require a licensed contractor.
- K. An owner-occupant of a one- or two-family dwelling may secure permits to personally install, alter or repair any items or do any construction covered by the articles of this chapter, provided said owner-occupant has reasonable knowledge of such installation. The Building Official may require the applicant to submit evidence of such skills and knowledge before issuing a permit for any such work. Said occupant shall call for inspections as required by the building code.
- L. Plans, engineering calculations, diagrams and other data shall be submitted in one or more sets with each application for any permit covered by this chapter. The Building Official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed in the State of Michigan to practice as such. Exceptions are as follows:
- (1) Alterations and repair work determined by the Building Official to be of a minor nature.
  - (2) A building of use group R-3 containing not more than 3,500 square feet unless such building is constructed using unusual or proprietary systems for structure, mechanical, electrical components not clearly covered by the building regulations.
  - (3) Work costing less than \$15,000 and to be done by a state agency.

**§ 9-7. Alterations, renovations and interior demolition.**

- A. All unused wiring, piping, conduit, communications cable, ducts and associated junction boxes, supports and accessories, the same which are located in areas accessible for maintenance and remaining from any prior or current remodeling and/or rehabilitation work on any building, are to be removed from the building or premises unless such items are planned to be reused at some future date. The Building Official may permit such items to remain when reuse is not planned if they can be rendered safe and will not otherwise constitute a violation of this Code or other law.
- B. A building permit must be obtained from the Buildings Division for interior demolition work as herein described for all buildings unless such work is documented as part of the plans and specifications submitted with a building permit request for reconstruction work to be done in the building and such demolition work is done after the issuance of the building permit. Demolition work requiring such a permit includes but is not limited to the removal of duct work, piping, conduit partitions, structural members and general clearing of an interior area of more than 500 square feet. Any interior demolition work of any kind which, when started or

- § 9-7 if discovered in the work process, requires the removal of asbestos, must be done by a contractor approved by the State of Michigan, Department of Public Health, Bureau of Environmental and Occupational Health. § 9-9
- C. When renovation work results in a change of use of a building as defined in Chapter 11 of the Michigan Building Code or any renovation work is done to more than 50% of the floor area of an existing building, the entire building must be brought into compliance with the current barrier-free design rules promulgated by the State of Michigan. When renovation work is done to less than 50% of an existing building, the area renovated and a means of exit travel from the area to the exterior must comply with the referenced barrier-free rules. All additions to existing buildings must comply with the referenced barrier-free rules.
  - D. When and where renovation work is of such a scope that either face of a hollow wall or partition is removed and replaced, all services exposed within said wall or partition shall be brought up to current building, electrical, mechanical and plumbing codes. This same requirement applies to work which includes removing and replacing ceilings and removing and replacing floor construction. When such work includes adding electrical devices, any new circuits required to feed those devices to avoid overloading existing circuits shall be added.
  - E. Debris resulting from demolition and other construction work is to be regularly and promptly removed from the site and disposed of in compliance with all federal, state and local regulations. As long as a dumpster or other debris container is not full, and its contents do not pose a hazard or violate any statute, ordinance, rule or regulation, the dumpster need not be emptied until completion of the work for which the permit was issued. Dumpsters and any other containers used to collect such debris shall be placed and protected on the construction site so that they do not attract unauthorized use for trash and garbage disposal by persons other than those engaged in work on the site. When containers for debris from demolition or other construction work are not required or used for a period of two weeks and are accessible to unauthorized use, they are to be removed from the site. If such removal is not made, such containers may be declared a nuisance and their removal accomplished under provisions of Chapter 21<sup>51</sup>, §§ 21-3 through 21-5, of the City Code of Ordinances.
  - F. When the repair of plumbing piping requires the replacement of a section of metal water supply piping, and the replacement pipe is nonmetallic, the two ends of the metal piping shall be bonded to maintain electrical grounding continuity past the nonmetallic pipe.
  - G. When new electrical wiring is required in any finished area in a dwelling unit, and such wiring cannot be concealed within walls, under floors or above ceilings, then such exposed wiring shall be done in a complete wiring distribution system specifically designed to be surface-mounted on finished surfaces.

#### **§ 9-8. Permit duration and expiration.**

Regardless of any other language in this chapter, the Building Official may grant an extension to the starting time for any permit issued under the provisions of this chapter for a maximum of 30 days if the permit holder requests such an extension in writing and provides evidence that the delay is caused by action over which the permit holder has no control. Likewise, the Building Official may grant an extension to the period of construction inactivity after work has commenced for a maximum of 30 days under the same procedure and conditions as allowed for the delay in starting work. A limit of two such extensions in either case may be granted by the Building Official. Any further extensions may only be granted by the Construction Board of Appeals.

#### **§ 9-9. Fees for actions taken under Chapter 9.**

- A. The City Commission may, by resolution, establish reasonable fees for covering the costs of actions taken under Chapter 9 of the City Code.
- B. The costs shall be a lien against the real property and shall be reported to the assessing officer of the City who

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51. Editor's Note: See Ch. 21, Nuisances.

§ 9-9 shall assess the cost against the property on which the building or dwelling is or was located. § 9-12

C. The owner or party in interest in whose name the property appears upon the last local tax assessment record shall be notified of the amount of the costs referred to in Subsection B by first class mail at the address shown on the record. If he/she fails to pay the same within 30 days after mailing by the assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the City, and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes and/or may be collected by suit at law. Interest shall accrue as provided for taxes and judgments by law.

**§ 9-10. Civil remedies for violations.**

- A. Any building constructed, altered, converted or maintained in violation of any provision of this chapter is declared to be a nuisance. The Building Official may institute an action in the circuit court to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or any nuisance, to prevent the occupation of such building or to prevent any illegal act, conduct or business in or about such building. The procedure for such action shall be the same as for an injunction for abatement of a nuisance in the circuit court.
- B. The judgment of the court in such cause may direct the corrections, repair or rehabilitation of the building or the abatement of the nuisance, may authorize a reasonable time within which the defendant may make such corrections, repairs, rehabilitation or abatement, and may authorize the Building Official to execute and carry out the provisions of the judgment in case of default by the defendant. Whenever the City has incurred any expense for the enforcement of this chapter or the judgment of the court, the City may sue the owner or possessor of the premises, or both, and may recover the amount of such expense, in addition to the costs of suit.
- C. The City shall have a lien upon the premises for the expenses necessarily incurred in the execution of such judgment which lien shall have priority over all other liens or encumbrances, except taxes, assessments or mortgages recorded previous to the existence of such lien. Such lien may be foreclosed as in the case of foreclosure of mortgages by court action, as established by the circuit court rules and statutes of the state in such case made and provided.

**§ 9-11. Appearance tickets.**

Prosecutions for violations of this chapter may be commenced by issuing a municipal civil infraction citation. The Building Official is authorized to issue and serve such citations.

**§ 9-12. Paving permit required.**

A. No part of any yard or premises shall be paved or repaved (including pavement reconstruction and pavement expansion) for the purposes of providing vehicular access or parking unless a paving permit is first issued by the Building Official as described in this section.

(1) Definitions. For the purposes of this section, the following definitions shall apply:

PAVE (AND ITS DERIVATIVES) — The placement of materials on the ground for the purposes of providing vehicular access or parking, including, but not limited to, gravel, concrete, bituminous material, crushed stone, tile, or brick pavers.

PAVEMENT EXPANSION — The extension of the existing boundaries of the paving on a property.

PAVEMENT MAINTENANCE — The minor repair and routine maintenance of existing paving, including applying surface sealers and patches, filling cracks and potholes, and raking and leveling loose paving materials.

PAVEMENT RECONSTRUCTION — The replacement of the existing paved surfaces, or the

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supplementation of existing paving materials, or the placement of a new type of surface material over an existing paved surface. § 9-13

- (2) Permit application. An application for a paving permit shall include an accurate site plan or survey of the lot for which the permit is sought, showing:
  - (a) The dimension of each side of the lot.
  - (b) The boundaries, with dimensions, of existing and proposed paving on the lot and the location and dimensions of parking spaces.
  - (c) The location and dimensions of any buildings or other structures on the lot.
  - (d) The nature of the paving material or materials to be used, the nature of the subbase to be used, and the nature of adjacent ground cover.
- (3) Permit issuance. The paving permit shall identify the property upon which the paving is to be done and describe the specific area which is to be paved and the type of surface to be used. The paving permit shall be posted in a conspicuous location on the lot during the paving operation. No paving permit shall be issued to place new paving, or paving expansion, unless all parking and access facilities on the property meet the standards in § 36-186 in the City Code of Ordinances and the standards of Chapter 6, Section 1 (§ 6.1) of Appendix A of the City Code of Ordinances, being the Zoning Ordinance.
- (4) Nonconforming paving. A paving permit may be issued to reconstruct a driveway or a paving space which legally exists at the time of adoption of this provision. When such paving, or any portion thereof, can feasibly be done in greater conformity with the standards in § 36-186 in the City Code of Ordinances and/or the standards of Chapter 6, Section 1 (§ 6.1) of Appendix A of the City Code of Ordinances, being the Zoning Ordinance, the Building Official shall so require in any paving permit. In determining such feasibility, the following provisions shall apply:
  - (a) The reconstruction shall not increase or extend any existing nonconformity;
  - (b) The reconstruction shall not cause or permit a change in the occupancy or use of the property; and
  - (c) The reconstruction shall not increase the number of parking spaces provided on the property.

**§ 9-13. through § 9-20. (Reserved)**





ARTICLE II  
**Building Code**

DIVISION 1

Generally [B&H Code §§ BH201, BH202; amended 2-14-1977 by Ord. No. 1106; 4-28-1980 by Ord. No. 1196; 1-3-1984 by Ord. No. 1304; 4-14-1986 by Ord. No. 1378; 12-4-1989 by Ord. No. 1479; 6-29-1992 by Ord. No. 1535; 2-26-1996 by Ord. No. 1611; 12-20-1999 by Ord. No. 1691; 6-19-2006 by Ord. No. 1804; 9-16-2019 by Ord. No. 1999]

**§ 9-21. Title.**

This chapter, together with the codes adopted by § 9-22, shall be known as the "Kalamazoo Building Code."

**§ 9-22. Adoption and purpose of Michigan Building Code and Michigan Residential Code.**

Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Building Code and the Michigan Residential Code, being the most recent editions as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, are hereby adopted by reference as if fully set forth herein for the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment use, height, area and maintenance of building and residential structures in the City, providing for the issuance of permits and collection of fees therefor and providing penalties for the violations thereof except as otherwise provided in the City Code. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of such state-adopted codes herein adopted, and a provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the state-adopted codes shall control.

**§ 9-23. Definitions of terms used in Michigan Building Code and Michigan Residential Code.**

References therein to "state" shall mean the State of Michigan; references to "municipality" shall mean the City of Kalamazoo; references to the "municipal charter" shall mean the Charter of the City of Kalamazoo; and reference to "local ordinances" shall mean the Kalamazoo City Code.

**§ 9-24. Assumption by City of Kalamazoo for administration and enforcement of Stille-Derossett-Hale Single State Construction Code Act.**

Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the City of Kalamazoo assumes responsibility for the administration and enforcement of the Stille-DeRossett-Hale Single State Construction Code Act throughout the corporate limits of the City of Kalamazoo.

**§ 9-25. Building Official as enforcing agent under Stille-Derossett-Hale Single State Construction Code Act.**

Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Building Official of the City of Kalamazoo is hereby designated as the enforcing agent to discharge the responsibility of the City of Kalamazoo under the Stille-DeRossett-Hale Single State Construction Code Act.

**§ 9-26. License exemptions.**

A person may engage in the business of or act in the capacity of a residential builder or a residential maintenance and alteration contractor or salesperson in this state without a license under this section, if the person is one of the following:

- A. An authorized representative of the United States government, this state, or a county, township, city, village, or other political subdivision of this state.

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- B. An owner of property, with reference to a structure on the property for the owner's own use and occupancy.
- C. An owner of rental property, with reference to the maintenance and alteration of that rental property.
- D. An officer of a court who is acting within the scope of that office.
- E. A person other than the salesperson that engages solely in the business of performing work and services under contract with a residential builder or a residential maintenance and alteration contractor that is licensed under this article.
- F. A person that is working on one undertaking or project by one or more contracts, if the aggregate contract price for the labor, material, and any other items for the undertaking or project is less than \$600. The exemption described in this subdivision does not apply if the work of a construction is only a part of a larger or major operation, whether undertaken by the same or a different residential builder or residential maintenance and alteration contractor, or in which a division of the operation is made in contracts of amounts less than \$600 to evade this act.
- G. An electrical contractor that is licensed under Article 7 of the Skilled trades Regulation Act, MCLA 339.5701 to 339.5739. The exemption described in this subsection applies only to the electrical installation, electrical maintenance, or electrical repair work that is performed by the electrical contractor.
- H. A plumbing contractor that is licensed under Article 11 of the Skilled Trades Regulation Act, MCLA 339.6101 to 339.6133. The exemption described in this subsection applies only to plumbing installation, plumbing maintenance, or plumbing repair work that is performed by the plumbing contractor.
- I. A mechanical contractor that is licensed under Article 8 of the Skilled Trades Regulation Act, MCLA 339.5801 to 339.5819. The exemption described in this subsection applies only to mechanical installation, mechanical maintenance, or mechanical repair work that is performed by the mechanical contractor.

**§ 9-27. Stop-work orders.**

- A. Where the Building Official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the Building Official is authorized to issue a stop-work order.
- B. A person who is served with a stop-work order, except for work that the person is directed to perform to remove a violation or unsafe condition, subject to the penalty provisions prescribed in this Chapter.
- C. Any person who shall continue any work after having been served with a stop-work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall in violation of this Chapter.

**§ 9-28. through § 9-30. (Reserved)**

DIVISION 2

Construction Board of Appeals [B&H Code § BH205; amended 4-28-1980 by Ord. No. 1197; 12-20-1999 by Ord. No. 1691]

**§ 9-31. Established; composition; appointment and terms of members.**

- A. There is hereby established a Construction Board of Appeals consisting of seven members appointed by the City Commission as follows:
  - (1) One member who is principally engaged in commercial construction with at least five years experience, and whose office or residence is within the City.

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- (2) One member who is principally engaged in residential construction, with at least five years experience, whose office or residence is within the City.
  - (3) One registered structural engineer or architect, whose office or residence is within the City.
  - (4) One licensed master plumber or licensed journeyman plumber with at least five years experience as such, and whose office or residence is within the City.
  - (5) One licensed master electrician or licensed journeyman electrician with at least five years' experience as such, and whose office or residence is within the City.
  - (6) One licensed mechanical contractor with at least five years' experience as such, and whose office or residence is within the City.
  - (7) One representative of the City at large who is a property owner and who has resided within the City for at least five years.
- B. If a representative is not available from each of the categories listed above, the City Commission may appoint others who do not meet all of the specific requirements but, in the opinion of the City Commission, are qualified with experience and training to pass upon pertinent matters.
- C. Such members shall be appointed for terms of three years except that the initial appointments shall provide for three three-year terms, two two-year terms, and two one-year terms so that subsequent appointments shall not occur at the same time.

**§ 9-32. Meetings and rules generally.**

The Construction Board of Appeals shall meet at such times as the board may determine. The board shall propose bylaws for approval by the City Commission. All meetings of the board shall be open to the public.

**§ 9-33. Quorum; votes necessary for decision.**

A majority of the members of the board shall constitute a quorum. A majority of the members is required to take action on all matters not of an administrative nature, but a majority of a quorum may deal with administrative matters.

**§ 9-34. Secretary; minutes of meetings.**

The Building Official shall serve as secretary of the Construction Board of Appeals and shall keep records of its meetings. The minutes of the meetings shall be in writing, but may state the substance of any matter considered.

**§ 9-35. General powers and duties. [Amended 6-19-2006 by Ord. No. 1804]**

- A. The Construction Board of Appeals shall act as a quasi-judicial body in deciding matters brought before it which involve interpretation of any provision of this chapter. The Construction Board of Appeals shall also act as an advisory board to the City Commission. The board shall have the following powers and duties:
- (1) To provide for reasonable interpretation of the provisions of the City building codes, plumbing codes, mechanical codes, electrical codes, and fire codes. The board shall have no authority to waive requirements of any City codes.
  - (2) To hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of the City building, plumbing, mechanical, electrical and fire codes.
  - (3) To hear and decide appeals from any order, requirement or refusal made by an administrative official

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charged with the enforcement of the Soil Erosion and Sedimentation Control Ordinance pursuant to § 30-12 of the Kalamazoo City Code.

- (4) To hear and decide appeals from any order, requirement or refusal made by an administrative official charged with the enforcement of the City Fire Code pursuant to § 15-46 of the Kalamazoo City Code.
- (5) To approve alternate materials and methods of installation.
- (6) To do acts, make decisions and make such determinations as authorized by state law or the Kalamazoo City Code.
- (7) After a public hearing, the board may grant a specific variance to a substantive requirement of the codes, if the literal application of the substantive requirement would result in exceptional practical difficulty to the applicant, and if both of the following requirements are satisfied:
  - (a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of the particular item or part for the health, safety, and welfare of the people of the City and the intent of the code is observed, public safety secured and substantial justice done.
  - (b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment to the code with respect to the condition reasonably practical or desirable.

B. The board may attach in writing any condition in connection with the granting of a variance that, in its judgment, is necessary to protect the health, safety and welfare of the people of the City. The breach of a condition shall automatically invalidate the variance and any permit, license, and certificate granted on the basis of it. In no case shall more than the minimum variance from the code be granted that is necessary to alleviate the exceptional practical difficulty.

### § 9-36. Procedure for appeals to board.

- A. Appeals from the rulings of any official charged with the enforcement of this chapter may be made to the Construction Board of Appeals within 21 days from the date of the determination. The appellant shall file with the official from whose decision the appeal is taken and with the board, a notice of appeal, specifying the grounds therefor and stating the address of the appellant. The Building Official shall set the matter for hearing and give due notice thereof to all interested parties. The board shall hear such matter and decide the same not later than 30 days after submission of the appeal. Failure by the board to hear an appeal and file a decision within the time limit shall be deemed a denial of the appeal, for the purposes of instituting an appeal to the State Construction Code Commission. **[Amended 6-19-2006 by Ord. No. 1804]**
- B. Within the limits of its jurisdiction, as prescribed in this article, the Construction Board of Appeals may reverse or affirm, in whole or in part, or may make such order, requirement, decision or determination as, in its opinion, ought to be made in the premises, and to that end shall have all the powers of the official from whom the appeal is taken. The final disposition of such appeal shall be in writing and shall state the grounds therefor and shall be forthwith delivered to the appellant at his last known address.

### § 9-37. Requests for interpretation, approval of materials, etc.

Any person, including the Building Official, may file with the Construction Board of Appeals requests for interpretation of the codes, approval of alternate methods or materials, or any other matter provided for under the powers and duties of the board, in the same manner as provided for appeals.

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**§ 9-38. Contents of orders.**

Any orders issued by the Construction Board of Appeals shall be set out in full, shall be supported by findings of fact, and shall state the grounds of the order in a manner reasonably calculated to apprise the petitioner of the basis thereof.

**§ 9-39. When decisions effective.**

In the absence of an appeal pursuant to § 9-40, decisions of the Construction Board of Appeals become effective on the 10th business day after filing of the decision with the Building Official.

**§ 9-40. Legal review. [Amended 6-19-2006 by Ord. No. 1804]**

An interested person, or his/her authorized agent, may seek review of a decision of the Construction Board of Appeals with the State Construction Code Commission or as otherwise provided by law. An appeal to the State Construction Code Commission must be filed within 10 business days of the filing of the board's decision with the Building Official or within such time period as state law may prescribe. In case of review sought because of failure of the board to act within the time prescribed, an appeal may be filed at any time before filing of the decision of the Construction Board of Appeals or as otherwise provided by law.

**§ 9-41. References to Building Board of Appeals. [Added 6-19-2006 by Ord. No. 1804]**

Any reference in the Kalamazoo City Code to the "Building Board of Appeals" shall be treated as a reference to the "Construction Board of Appeals."

**§ 9-42. (Reserved)**

**§ 9-43. (Reserved)**

**§ 9-44. (Reserved)**

**§ 9-45. (Reserved)**

**§ 9-46. (Reserved)**

**§ 9-47. (Reserved)**

**§ 9-48. (Reserved)**

**§ 9-49. (Reserved)**

**§ 9-50. (Reserved)**

**§ 9-51. (Reserved)**

**§ 9-52. (Reserved)**

**§ 9-53. (Reserved)**

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§ 9-61. (Reserved)

§ 9-62. (Reserved)

§ 9-63. (Reserved)

§ 9-64. (Reserved)

§ 9-65. (Reserved)

§ 9-66. (Reserved)

§ 9-67. (Reserved)

§ 9-68. (Reserved)

§ 9-69. (Reserved)

DIVISION 3

Signs<sup>52</sup> [Amended 7-10-1989 by Ord. No. 1466]

**§ 9-70. Purpose; scope; general restrictions. [Amended 6-19-2006 by Ord. No. 1804]**

- A. The purpose of this division is to provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the design, quality of materials, construction location, electrification and maintenance of all signs and sign structures not located in a building.
- B. No sign shall be erected in such a manner as to confuse or obstruct the view or interpretation of any official traffic sign or device.
- C. This division shall not permit a violation of any of the provisions of another lawful ordinance.

**§ 9-71. Permits; fees; inspections.**

- A. Compliance and permit required. It shall be unlawful for any person to erect, reerect, alter or relocate any sign except as provided by this division unless a permit for the same has been issued by the Building Official. In addition, electrical permits shall be obtained for electric signs. The alteration, repair or remodeling of a sign which requires removal of the sign from its supporting structure or framework shall require a permit from the building section. If such alteration, repair or remodeling can be made without taking the sign down, no permit

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52. Editor's Note: Former Division 3, Amendments to Uniform Building Code, which was comprised of §§ 9-47 through 9-65, as amended, was repealed 6-19-2006 by Ord. No. 1804. This ordinance also renumbered former Division 4, Signs, as Division 3. See also App A, Ch. 7, Signs.

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shall be required; but the division shall be notified of such work.

- (1) Every permit issued by the Building Official under the provisions of this division shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 60 days from the date it is issued, or if the work authorized by such permit is suspended or abandoned for a period of 60 days at any time after the work is commenced. Before such work can be recommenced, a new permit shall be first obtained to do so; and the fee therefor shall be equal to the fee required for a new permit for such work; provided that no changes have been made or will be made in the original scope of work and type of sign.
  - (2) In the instances when delays in starting or continuing work within the described time frames are for circumstances beyond the control of the permittee holding the permit, the Building Official may extend the time for action by the permittee for a period not exceeding 30 days if such extension is requested in writing by the permittee. No permit shall be extended more than once.
- B. Permit application. Applications for sign permits shall be made in writing upon forms furnished by the City. **[Amended 6-19-2006 by Ord. No. 1804]**
- C. Signs in historic districts. All existing and proposed signs located in local designated historic districts shall be reviewed and approved by the Historic District Commission prior to any installation, alteration, sign-face change or removal.
- D. Exemptions. No permit is required for the following signs, but this exemption shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance or its compliance with this division or any other law or ordinance regulating the same. Also see Chapter 7 of the Zoning Ordinance (Appendix A) of the Code of Ordinances:
- (1) Memorial tablets and historical markers attached to, embossed or engraved on the facade of a building or incorporated into the architecture of the building.
  - (2) Signs painted on or permanently attached to motor vehicles which are legally licensed for and primarily used for transportation, provided that no such vehicle is parked on the premises for the primary purpose of advertising any product or services offered.
  - (3) Special purpose signs, including:
    - (a) Parking lot identification and directional signs as follows:
      - [1] Two freestanding signs, each not exceeding four square feet in area or four feet in height, which may be located in the setback area at each driveway entrance or exit and not less than three feet from the lot line.
      - [2] Such a sign may be internally illuminated.
      - [3] No obstructions of traffic or other hazardous condition shall be created by such sign.
      - [4] The name of the business offering the parking may be identified on the sign, but in no instance shall it occupy more than 1/3 of the copy area.
    - (b) Residential nameplate and house numbers, either of which may be illuminated, on buildings or poles not exceeding six feet in height.
    - (c) Signs not exceeding two square feet in area containing only noncommercial messages designating such things as rest room locations, telephones and prohibition of trespassing or dumping.
  - (4) Official signs used by governmental agencies, including, but not limited to, the following:

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- (a) Legal notices.
  - (b) Traffic signs in accordance with the requirements of the Michigan Manual of Uniform Traffic Control Devices.
  - (c) Danger and other emergency signs.
  - (d) Railroad crossings.
  - (e) Signs identifying parks or park rules.
  - (f) Historical markers.
- (5) Community special event signs as approved by the City Commission.
- (6) Signs required by law for the operation of a service station, including lettering, insignias, warnings and other information required on each pump.
- (7) Real estate signs.
- (8) "Open house" directional signs.
- (9) Election campaign signs.
- E. Fees. Sign permit fees shall be as prescribed by resolution of the City Commission.
- F. Inspections.
- (1) All signs for which a permit is required under this section shall be subject to inspection by the Building Official.
  - (2) Footing inspections may be required by the Building Official for all signs having footings.
  - (3) All signs containing electrical wiring shall be subject to the provisions of the electrical code of the City (§ 9-98 et seq. of this Code), and the electrical components used shall bear the label of an approved testing agency.
  - (4) Signs which are unsafe shall be ordered removed or repaired immediately, depending wholly upon the condition of the sign. It shall be unlawful for any person to fail to comply with such an order to repair or remove any sign.
  - (5) A sign may be reinspected at the discretion of the Building Official.

**§ 9-72. (Reserved)<sup>53</sup>****§ 9-73. Projections over public rights-of-way. [Amended 6-19-2006 by Ord. No. 1804]**

- A. Signs may be allowed to project into or be erected over the public right-of-way when permitted by Appendix A, the Zoning Ordinance of the Code of Ordinances, and approved by the City. Signs projecting over the public right-of-way shall be erected only by licensed sign erectors.
- (1) The owner of every sign projecting into the public right-of-way shall be required to obtain from the building section an annual permit for such sign. The fee for such permit shall be as prescribed by resolution of the City Commission.
  - (2) The permit provided for this section shall expire on the first day of November of each year and shall be

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53. Editor's Note: Former § 9-72, Sign erector's license, was repealed 6-19-2006 by Ord. No. 1804.



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renewed within 30 days from that date.

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- (3) In case a permit required by this section is not renewed within 60 days after its expiration, the Building Official shall be empowered to remove or cause to be removed the sign covered by such permit. The City may bill the permit holder for any costs associated with removal of the sign.
- (a) Any wall or flat sign which extends from the building or structure on which it is mounted a distance of 18 inches or more over public property, or which extends over public property and has a space between it and the building of three inches or more shall be considered to be a sign projecting over the public right-of-way.
- (b) No sign projection over a sidewalk used by the public shall be less than 11 feet in the clear above the sidewalk on streets and not less than 15 feet above the sidewalk in alleys.
- (c) Signs projecting over a public thoroughfare shall be kept at least three feet back of the curbline unless more restrictive requirements are applicable and set forth elsewhere; in which case, the more restrictive requirement shall control.

#### § 9-74. Design.

- A. Generally. Signs and sign structures shall be designed and constructed to resist wind and seismic forces as specified in this section. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such a manner as not to overstress any of the elements thereof.
- (1) The overturning movement produced from lateral forces shall in no case exceed 2/3 of the dead load-resisting movement. Uplift due to overturning shall be adequately resisted by proper anchorage to the ground or to the structural frame of the building. The weight of earth superimposed over footings may be used in determining the dead load-resisting movement. Such earth shall carefully placed and thoroughly compacted.
- B. Wind loads. Signs and sign structures shall be designed and constructed to resist wind forces as specified in the adopted building code of the City.
- C. Seismic loads. Signs and sign structures shall be designed and constructed to resist seismic forces as specified in the adopted building code of the City.
- D. Combined loads. Wind and seismic loads need not be combined in the design of signs or sign structures; only that loading producing the larger stresses need be used. Vertical design loads, except roofline loads, shall be assumed to be acting simultaneously with the wind or seismic loads.
- E. Allowable stresses. The design of wood, concrete, steel or aluminium members shall conform to the applicable requirements of the adopted building code of the City. Loads, both vertical and horizontal, exerted on the soil shall not produce stresses exceeding those specified in such code. Working stresses for wind or seismic loads combined with dead loads may be increased as specified in such code.

#### § 9-75. Construction.

- A. Generally. The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformity with this division.
- B. Materials. Construction materials for signs and sign structures shall be of the quality and grade as specified for buildings in the adopted building code of the City. All signs that project into the public right-of-way shall be constructed of noncombustible materials, except for approved plastics, and as otherwise provided in the allowable plastics, and as otherwise provided in the allowable materials in the adopted building code of the City.

- § 9-75 (1) Anchors and supports, when of wood and embedded in the soil or within six inches of the soil, shall be of all heartwood of a durable species or shall be pressure-treated with an approved preservative. Such members shall be marked or branded by an approved agency as recognized under the building code. § 9-77.2
- C. Nonstructural trim. Nonstructural trim may be of wood, metal, approved plastics or any combination thereof.
- D. Anchorage. Members supporting unbraced signs shall be so proportioned that the bearing loads imposed on the soil in either direction, horizontal or vertical, does not exceed the safe values. Braced ground signs shall be anchored to resist the specified wind or seismic load acting in any direction. Anchors and supports shall be designed for safe-bearing loads on the soil and for an effective resistance to pullout amounting to a force 25% greater than the required resistance to overturning. Anchors and supports shall penetrate to a depth belowground greater than that of the frostline.
- (1) Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to safely support the loads applied.
- (2) No wooden blocks or plugs or anchors with wood used in connection with screws or nails shall be considered proper anchorage except in the case of signs attached to wood framing.
- (3) No anchor or support of a sign shall be connected to or supported by an unbraced parapet wall, unless such wall is designed in accordance with the requirements for parapet walls specified for seismic zones in the adopted building code of the City.
- E. Approved plastics. The Building Official shall require that sufficient technical data be submitted to substantiate the proposed use of any plastic material; and, if it is determined that the evidence submitted is satisfactory for the use intended, the Building Official may approve its use.

**§ 9-76. Clearance.**

- A. Generally. Signs shall conform to the clearance requirements of this section.
- B. Clearance from high voltage power lines. Signs shall be located not less than six feet horizontally or 12 feet vertically from overhead electrical conductors which are energized in excess of 750 volts. As used in this subsection, "overhead conductors" means any electrical conductor, either bare or insulated, installed above the ground, except such conductors as are enclosed in iron pipe or other material covering of equal strength.
- C. Clearance from fire escapes, exits or standpipes. No sign or sign structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any escape, exit or standpipe.
- D. Openings. No sign shall obstruct any opening to such an extent that light or ventilation is reduced to a point below that required by the adopted building code of the City.

**§ 9-77. (Reserved)<sup>54</sup>**

**§ 9-77.1. (Reserved)<sup>55</sup>**

**§ 9-77.2. Fees for actions governed by this division.**

- A. The Kalamazoo City Commission may, by resolution, establish reasonable fees for covering the costs of actions taken with regard to a sign or sign structure governed by all or part of this division of the City Code.

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54. Editor's Note: Former § 9-77, Abandoned signs, as was repealed 6-19-2006 by Ord. No. 1804.

55. Editor's Note: Former § 9-77.1, Violations, was repealed 6-19-2006 by Ord. No. 1804.

§ 9-77.2

§ 9-77.2

- B. The costs shall be a lien against the real property and shall be reported to the assessing officer of the City who shall assess the cost against the property on which the sign or sign structure is or was located.
- C. The owner or party in interest in whose name the property appears upon the last local tax assessment record shall be notified of the amount of the costs referred to in Subsection B, by first-class mail at the address shown on the record. If he fails to pay the same within 30 days after mailing by the assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the City; and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes.



ARTICLE III  
Plumbing Code

DIVISION 1

Generally [Derived from Adm. Code § A209.3 and B&H Code §§ BH703 and 709; amended 5-5-1975 by Ord. No. 1054; 9-29-1975 by Ord. No. 1065; 7-30-1979 by Ord. No. 1168; 1-3-1984 by Ord. No. 1307; 6-18-1984 by Ord. No. 1327; 6-19-2006 by Ord. No. 1804; 9-16-2019 by Ord. No. 1999]

§ 9-78. Title.

This article shall be known and may be cited as the "Kalamazoo Plumbing Code."

§ 9-79. Michigan Plumbing Code adopted; purpose; definition.

- A. Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Plumbing Code, being the most recent edition as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, is hereby adopted by reference as if fully set forth herein, for the purpose of regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, stormwater and sewage disposal and buildings, and the maintenance of plumbing systems in the City. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of the Michigan Plumbing Code, herein adopted, and a provision of this chapter, or any other provision of this chapter, or any other provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the Michigan Plumbing Code shall control.
- B. The term "plumbing official," when used in the Michigan Plumbing Code, shall mean the Building Official of the City of Kalamazoo and/or plumbing inspector authorized to act for said Building Official.

§ 9-80. through § 9-83. (Reserved)

DIVISION 2  
(Reserved)<sup>56</sup>

§ 9-84. (Reserved)

DIVISION 3

Amendments to Plumbing Code [Amended 9-29-1975 by Ord. No. 1065; 3-8-1976 by Ord. No. 1079; 7-30-1979 by Ord. No. 1168; 1-3-1984 by Ord. No. 1307; 6-18-1984 by Ord. No. 1327; 6-19-2006 by Ord. No. 1804; 9-16-2019 by Ord. No. 1999]

§ 9-85. (Reserved)

§ 9-85.1. Section P-114.0 (Fees) amended.

- A. Subsection P-114.1 of Section P-114.0 is amended by adding thereto the following sentence: "The fees for permits required by this code shall be fixed by resolution of the City Commission."
- B. Subsection P-114.2 is deleted.

§ 9-85.2. Section P-118.0 (Stop Orders) amended.

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56. Editor's Note: Ord. No. 1691, § 20, adopted 12-20-1999, repealed former Div. 2, §§ 9-84 through 9-84.9, in its entirety which pertained to the Plumbing Board of Appeals and derived from Ord. No. 1065, § 2(BH640—BH645), 9-29-1975; Ord. No. 1327, § 4, 6-18-1984.

§ 9-85.2

§ 9-86

A. Subsection P-118.1 is amended to read as follows: "Whenever any plumbing work is being done contrary to the provisions of this code, the plumbing official may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, or said notice may be placed in a conspicuous location on the premises in violation, and any such persons shall stop such work until authorized by the plumbing official to proceed with the work. Written notice may be served either in person or by the United States mail."

(Use this language for electrical, building code, soil, and mechanical etc.)

B. Subsection P-118.2 is deleted.

**§ 9-85.3. Plumbing contractor, master plumber, journey plumber, or apprentice plumber; license or registration required; work not requiring license; performing activities within scope of licensure or registration.**

- A. A person shall not engage in or work at the business of a plumbing contractor, master plumber, journey plumber, or apprentice plumber unless that person is licensed or registered under this section. Except as provided in Subsections B and C, only a licensed master or journey plumber shall perform plumbing. A licensed master plumber shall be in charge and responsible for proper installation and conformance with the state construction code. Plumbing shall not be performed unless the plumbing contractor who is responsible has obtained a permit from the state or a governmental subdivision authorized to issue permits.
- B. A license under this section is not required to perform any of the following work:
- (1) Minor repair work.
  - (2) The installation of a building sewer or water service pipe, if a permit is secured from the responsible enforcing agency and inspections are performed. The installations shall comply with the applicable parts of the state construction code.
  - (3) The installation of domestic water treatment and filtering equipment that requires modification to an existing cold-water distribution supply and associated waste piping in buildings if a permit is secured, required inspections performed, and the installation complies with the applicable parts of the state construction code. If the enforcing agency determines a violation exists, the responsible installer must correct it.
  - (4) The installation by a homeowner of his or her own plumbing, building sewer, or private sewer in his or her single-family dwelling if a permit is secured.
  - (5) The installation of medical gas piping, if the installation is performed under the supervision of a licensed plumbing contractor.
- C. This article does not prevent a person from performing any activities within the scope of licensure or registration under any other licensure or registration act or applicable codes for that licensed or registered professional adopted pursuant to law.

**§ 9-86. through § 9-97. (Reserved)**

ARTICLE IV  
Electrical Code

[Adopted 10-24-1977 by Ord. No. 1125; 8-24-1981 by Ord. No. 1234; 10-21-1981 by Ord. No. 1235;  
7-21-1986 by Ord. No. 1387; 11-3-1986 by Ord. No. 1392; 12-20-1999 by Ord. No. 1691; 6-19-2006 by Ord.  
No. 1804; 9-16-2019 by Ord. No. 1999]

**§ 9-98. (Reserved)**

**§ 9-99. Michigan Electrical Code adopted; purpose; definition.**

- A. Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Electrical Code, being the most recent edition as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, is hereby adopted by reference thereto as if fully set forth herein, for the purpose of regulating the design, installation, alteration and repair of electrical wiring, devices and equipment in the City of Kalamazoo, providing for issuance of permits, and providing penalties for violation thereof. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of the Michigan Electrical Code, herein adopted, and a provision of this chapter, or any other provision of this chapter, or any other provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the Michigan Electrical Code shall control.
- B. The term "electrical official," when used in the Michigan Electrical Code, shall mean the Building Official of the City of Kalamazoo and/or electrical inspector authorized to act for said Building Official.

**§ 9-100. Electrical contracting; license required; classes of work.**

- A. Except as otherwise provided in this section or in Subsection C, a person shall not engage in the business of electrical contracting unless the person has received from the board or from the appropriate municipality an electrical contractor's license.
- B. Except as otherwise provided in this section or in Subsection C, an individual, other than an individual who is licensed under this article and employed by and working under the direction of a holder of an electrical contractor's license, shall not in any manner undertake to execute any electrical wiring.
- C. A licensee is not required to perform any of the following classes of work:
  - (1) Minor repair work.
  - (2) The installation, alteration, repairing, rebuilding, or remodeling of elevators, dumbwaiters, escalators, or man lifts performed under a permit issued by an elevator inspection agency of this state or a municipality of this state.
  - (3) The installation, alteration, or repair of electrical equipment and its associated wiring installed on the premises of consumers or subscribers by or for an electrical energy supply or communication agency for use by that agency in the generation, transmission, distribution, or metering of electrical energy or for the operation of signals or transmission of intelligence.
  - (4) The installation, alteration, or repair of electrical wiring for the generation and primary distribution of electric current, or the secondary distribution system up to and including the meters, if that work is an integral part of the system owned and operated by an electric light and power utility in rendering its duly authorized service.
  - (5) Any work involved in the manufacture of electric equipment, including the testing and repairing of that manufactured equipment.
  - (6) The installation, alteration, or repair of equipment and its associated wiring for the generation or

## § 9-100

## § 9-103

distribution of electric energy for the operation of signals or transmission of intelligence if that work is performed in connection with a communication system owned or operated by a telephone or telegraph company in rendering its authorized service as a telephone or telegraph company.

- (7) Any installation, alteration, or repair of electrical equipment by a homeowner in a single-family home and accompanying outbuildings owned and occupied or to be occupied by the individual who is performing the installation, alteration, or repair of electrical equipment.
- (8) Any work involved in the use, maintenance, operation, dismantling, or reassembling of motion picture and theatrical equipment used in any building with approved facilities for entertainment or educational use and that has the necessary permanent wiring and floor and wall receptacle outlets designed for the proper and safe use of that theatrical equipment, but not including any permanent wiring.
- (9) Work performed by a person that is licensed as a mechanical contractor in a classification described in section MCLA 339.5807(2)(a), (b), (d), (e), and (f), a person that is licensed as a plumbing contractor under Article 11, and employees of those persons, while performing maintenance, service, repair, replacement, alteration, modification, reconstruction, or upgrading of control wiring circuits and electrical component parts in existing mechanical systems defined in the Michigan mechanical code and the Michigan plumbing code, including, but not limited to, energy management systems, relays and controls on boilers, water heaters, furnaces, air conditioning compressors and condensers, fan controls, thermostats and sensors, and all interconnecting wiring associated with the mechanical systems in buildings that are on the load side of the unit disconnect, that is located on or immediately adjacent to the equipment, except for life safety systems wiring.
- (10) Electrical wiring associated with the installation, removal, alteration, or repair of a water well pump on a single-family dwelling to the first point of attachment in the house from the well, by a pump installer registered under Part 127 of the Public Health Code, 1978 PA 368, MCLA 333.12701 to 333.12771.
- (11) The installation, maintenance, or servicing of security alarm systems in a building or structure. As used in this subsection "security alarm system" means that term as defined in MCLA 339.5733(2)(c).
- (12) The installation, maintenance, or servicing of listed residential and commercial lawn irrigation equipment, except any permanent wired connections exceeding 30 volts.
- (13) The installation, maintenance, or servicing of listed landscape lighting systems and equipment, except any permanent wired connections exceeding 30 volts.
- (14) The installation, alteration, maintenance, or repair of electric signs and related wiring by an unlicensed individual under the direct supervision of a licensed sign specialist except that the ratio of unlicensed individuals engaged in this activity shall not exceed two unlicensed individuals to one licensed sign specialist. An enforcing agency shall enforce this ratio on a jobsite basis.
- (15) The construction, installation, maintenance, repair, and renovation of telecommunications equipment and related systems by a person that is primarily engaged in the telecommunications and related information systems industry. This exemption does not include the construction, installation, maintenance, repair, or renovation of a fire alarm system.

**§ 9-101. through § 9-102. (Reserved)**

**§ 9-103. Violation; remedies.**

- A. Any violation of the provisions of this article setting standards of construction or installation shall be a public nuisance and constitute a municipal civil infraction.
- B. This code may be enforced by suit for injunction, action for damages or any other legal process appropriate



§ 9-103  
to enforcement thereof.

§ 9-104

**§ 9-104. through § 9-149. (Reserved)**



ARTICLE V  
**Mechanical Code**  
**[B&H Code §§ BH501 - BH503]**

DIVISION 1

Generally [Amended 10-31-1977 by Ord. No. 1126; 3-24-1980 by Ord. No. 11923-24-1980 by Ord. No. 1193; 1-3-1984 by Ord. No. 1308; 4-14-1986 by Ord. No. 1379; 12-4-1989 by Ord. No. 1480; 6-29-1992 by Ord. No. 1536; 2-26-1996 by Ord. No. 1612; 12-20-1999 by Ord. No. 1691; 6-19-2006 by Ord. No. 1804; 9-16-2019 by Ord. No. 1999]

**§ 9-150. through § 9-151. (Reserved)**

**§ 9-152. Adoption and purpose of Code.**

- A. Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Mechanical Code, being the most recent edition as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, is hereby adopted by reference thereto as if fully set forth herein, for the purpose of regulating the design, construction, installation, quality of materials, location, operation and maintenance of heating, ventilating, cooling and refrigeration systems, and incinerators and other heat-producing appliances in the City, providing for the issuance of permits and collection of fees therefor, and providing penalties for the violation thereof. The City Commission may by resolution establish fees for permits issued for mechanical work authorized by the Michigan Mechanical Code. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of the Michigan Mechanical Code, herein adopted, and a provision of this chapter, or any other provision of this chapter, or any other provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the Michigan Mechanical Code shall control.
- B. The term "mechanical official," when used in the Michigan Mechanical Code, shall mean the Building Official of the City of Kalamazoo and/or mechanical inspector authorized to act for said Building Official.

**§ 9-153. Installations, alterations, or servicing of work classifications; designation of contractor of record; performance of work without compensation or on behalf of charitable organization; person registered as system provider or licensed as security alarm system contractor; contractor employing qualified maintenance crew.**

- A. Except as provided in Subsection C or D and under MCLA 339.5819, an individual or other person shall not perform installations, alterations, or servicing of work classifications under MCLA 339.5807(2) that are regulated under the Stille-DeRossett-Hale single state construction code act unless the person, if the person is an individual, or an employee of the person has received a mechanical contractor's license from the department that has not been revoked or suspended, the license is classified and limited under MCLA 339.5807, and the holder of the license has secured the appropriate permit from the enforcing agency charged with the responsibility of issuing permits.
- B. A person that performs installations, alterations, or servicing of work classifications under MCLA 339.5807(2) shall designate the holder of a mechanical contractor's license described in Subsection A as the contractor of record and notify the department in writing of the designation.
- C. If work that is within one of the classifications described in section MCLA 339.5807(2) is performed without compensation by a person that is licensed under this article for or on behalf of a charitable organization, the owner of the property on which the work is performed may obtain the permit required under Subsection A. However, this subsection applies only to the reconstruction, renovation, or remodeling of one- to four-family dwellings.

§ 9-153

D. A person that is registered as a system provider under the security alarm systems act, 2012 PA 580, MCLA 338.2181 to 338.2187, or licensed as a security alarm system contractor under the private security business and security alarm act, 1968 PA 330, MCLA 338.1051 to 338.1092, is not required to obtain a license from the department under this article or obtain a license or permit from a governmental subdivision or enforcing agency to perform work described in Subsection A in connection with the installation, maintenance, replacement, or servicing of a thermostat for a heating, ventilating, and air-conditioning system or a hydronic heating and cooling system.

E. If a contractor of record regularly employs a qualified maintenance crew to perform mechanical contracting work regulated under this article in a facility, this article does not require that the contractor of record perform work in that facility.

**§ 9-154. through § 9-160. (Reserved)**

DIVISION 2

(Reserved)<sup>57</sup>

**§ 9-161. (Reserved)**

**§ 9-162. (Reserved)**

**§ 9-163. (Reserved)**

**§ 9-164. (Reserved)**

**§ 9-165. (Reserved)**

**§ 9-166. (Reserved)**

**§ 9-167. (Reserved)**

**§ 9-168. (Reserved)**

**§ 9-169. (Reserved)**

**§ 9-170. (Reserved)**

**§ 9-171. (Reserved)**

**§ 9-172. (Reserved)**

**§ 9-173. (Reserved)**

**§ 9-174. (Reserved)**

**§ 9-175. (Reserved)**

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57. Editor's Note: Ord. No. 1691, § 25, adopted 12-20-1999, repealed former Div. 2, §§ 9-161 through 9-170, in its entirety which pertained to the mechanical board of appeals and derived from the B&H Code, § BH503(A)1 through 6; Ord. No. 1192, 3-24-1980.

§ 9-176  
§ 9-176. (Reserved)

§ 9-197

DIVISION 3  
(Reserved)<sup>58</sup>

§ 9-177. (Reserved)<sup>59</sup>

§ 9-178. (Reserved)<sup>60</sup>

§ 9-179. (Reserved)

§ 9-180. (Reserved)

§ 9-181. (Reserved)

§ 9-182. (Reserved)

§ 9-183. (Reserved)

§ 9-184. (Reserved)

§ 9-185. (Reserved)

§ 9-186. (Reserved)

§ 9-187. (Reserved)

§ 9-188. (Reserved)

§ 9-189. (Reserved)

§ 9-190. (Reserved)

§ 9-191. (Reserved)

§ 9-192. (Reserved)

§ 9-193. (Reserved)

§ 9-194. (Reserved)

§ 9-195. (Reserved)

§ 9-196. (Reserved)

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58. Editors Note: Prior to the adoption of Ord. No. 1612, Division 3 was entitled "Trade Licenses"; Ord. No. 1612, adopted 2-26-1996, repealed former Div. 3, § 9-177, in its entirety which pertained to the registration of mechanical contractors and derived from the B&H Code, § BH503(C), E; Ord. No. 1378, 4-14-1986; Ord. No. 1480, 12-4-1989.

59. Editor's Note: Sec. 4 of Ord. No. 1612, adopted 2-26-1996, deleted § 9-177 relating to registration of mechanical contractors.

60. Editor's Note: Sec. 4 of Ord. No. 1378, adopted 4-14-1986, amended the Code by repealing §§ 9-178 through 9-184, containing provisions relative to mechanical trade licenses and derived from the B&H Code §§ BH503(C)(E), BH709, and from Ord. No. 1193, adopted 3-24-1980.

§ 9-197  
§ 9-197. (Reserved)

§ 9-198. (Reserved)

§ 9-199. (Reserved)

§ 9-200. (Reserved)

§ 9-201. (Reserved)

§ 9-202. (Reserved)

§ 9-203. (Reserved)

§ 9-204. (Reserved)

§ 9-205. (Reserved)

§ 9-206. (Reserved)

§ 9-207. (Reserved)

§ 9-208. (Reserved)

§ 9-209. (Reserved)

§ 9-210. (Reserved)

§ 9-211. (Reserved)

§ 9-212. (Reserved)

§ 9-213. (Reserved)

§ 9-214. (Reserved)

§ 9-215. (Reserved)

§ 9-216. (Reserved)

§ 9-217. (Reserved)

§ 9-218. (Reserved)

§ 9-219. (Reserved)

§ 9-220. (Reserved)

§ 9-221. (Reserved)

§ 9-222. (Reserved)

- § 9-223. (Reserved)
- § 9-224. (Reserved)
- § 9-225. (Reserved)
- § 9-226. (Reserved)
- § 9-227. (Reserved)
- § 9-228. (Reserved)
- § 9-229. (Reserved)
- § 9-230. (Reserved)
- § 9-231. (Reserved)
- § 9-232. (Reserved)
- § 9-233. (Reserved)
- § 9-234. (Reserved)
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- § 9-246. (Reserved)
- § 9-247. (Reserved)
- § 9-248. (Reserved)

§ 9-249  
§ **9-249. (Reserved)**

§ 9-250

§ **9-250. (Reserved)**



ARTICLE VI  
**Wrecking or Moving Buildings**  
**[Adopted 5-27-1975 by Ord. No. 1057]**

DIVISION 1  
 Generally

**§ 9-251. (Reserved)**

**§ 9-252. Work to be done in safe and workmanlike manner.**

All wrecking and moving of buildings or structures shall be done in a safe, workmanlike manner. Willful or continued performance of work in an unsafe, shoddy, dangerous or unworkmanlike manner shall be cause for the revocation of a building wrecker's or mover's license and/or cancellation of the permit issued under this article.

**§ 9-253. Barricades or fences. [Amended 6-19-2006 by Ord. No. 1804]**

A. During the wrecking of any building or structure, barricades shall be erected, as required by Chapter 33 of the Michigan Building Code adopted by § 9-22 of this chapter, unless specifically waived by the Building Division, when the following conditions exist:

- (1) When wrecking any building or structure which is less than 15 feet from the property line.
- (2) When wrecking any building or structure which exceeds one story in height and is more than 15 feet from the front property line and debris from demolition could fall onto public property.

Provided, however, when wrecking one- or two-family structures, a barricade, such as a snow fence or equivalent, may be erected in lieu of the requirements of said Chapter 33.

B. Immediately after the removal of first floor construction, a substantial fence or barricade, subject to the approval of the Building Official, shall be erected completely around the basement or cellar and shall be maintained until the filling and leveling off has been completed or new construction started.

C. When a building or structure is being moved, an adequate fence or barricade, such as a snow fence or equivalent, shall be erected completely around open basements or cellars, the same day the building or structure is moved off the foundation walls, and shall be maintained until the filling and leveling off has been completed or new construction started.

D. The use of foundation walls above grade for barricading is prohibited.

**§ 9-254. Protection of utilities; capping or plugging sewer lines.<sup>61</sup>**

Persons responsible for wrecking or moving operations pursuant to a permit issued under this article shall provide proper protection for all public utilities to prevent damage or interruption of service. Sewer lines shall be properly capped or plugged in accord with the requirements of the Public Works Department.

**§ 9-255. Operation of trucks and machinery.**

Trucks and machinery used in connection with wrecking or moving operations under this article shall be operated in such a manner as not to create a traffic hazard and in accordance with any instructions or directions of the Police and Traffic Engineering Departments.

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**61. Editor's Note: See also Ch. 28, Wastewater Discharge Regulations and Enforcement Procedures.**

§ 9-256

§ 9-262

**§ 9-256. Payment to City for blocked parking meters.**

The person responsible for the wrecking or moving of any building or structure shall be required to pay the City Treasurer for any and all parking meters blocked off during the wrecking or moving operations.

**§ 9-257. Replacement of damaged sidewalks.**

Public sidewalks damaged by a building wrecker's or mover's equipment shall be promptly replaced at the wrecker's or mover's expense. Replacement sidewalks shall be constructed in accordance with sidewalk standards of the Department of Public Works.

**§ 9-258. Removal and disposal of materials during wrecking and moving operations. [Amended 4-6-1992 by Ord. No. 1529]**

Materials shall be removed and disposed of systematically, as the building or structure is wrecked or moved, to prevent the creation of a fire hazard or danger to the public or interference with the use of public property.

- A. It shall be the obligation of the wrecker or mover to cease operations immediately whenever any hazardous, dangerous, or unknown materials are encountered and to immediately notify the Building Official of the presence of such materials. Operations may resume once the Building Official has verified the proper removal of such materials.
- B. It shall be the obligation of the wrecker or mover to provide or obtain suitable locations for the disposal of any debris resulting from the wrecking or moving operation and to notify the Building Official of those locations before such debris leaves the project site.
- C. The premises on which a building or structure has been wrecked or from which it has been moved shall be cleared of all debris within 10 days after the wrecking or moving operation is completed.

**§ 9-259. On-site sale of materials during wrecking operations.**

Materials may be sold from the premises where a building is being wrecked only during the wrecking period. No materials shall be brought in for sale. Materials shall not be sold or stored on adjacent property or on the curb, lawn or other public property or property generally used by the public.

**§ 9-260. Lighting required when moved building left on streets at night.**

If, in the moving of a building or structure, it becomes necessary to leave the building or structure on the streets or other public thoroughfares after sundown, the mover shall be responsible for providing the necessary lighting of the building or structure and all equipment used in connection with the moving process, from sundown to sunrise, to protect the public.

**§ 9-261. Completion time for moving.**

All moving of buildings or structures shall be fully completed within 30 days from date of the issuance of a permit under this article.

**§ 9-262. Completion time for wrecking. [Amended 9-27-1976 by Ord. No. 1098; 12-4-1989 by Ord. No. 1479]**

- A. All work covered by a wrecking permit issued under this article shall be completed within the following time limits unless extended in the manner described in this section:
  - (1) Buildings whose total floor area, including basement or cellar, is not more than 2,500 square feet shall be completed within 45 calendar days from the date of issuance of the permit or the date specified for beginning work by the permit applicant at the time of permit issuance.

- § 9-262 (2) Buildings whose total floor area, including basement or cellar, is over 2,500 square feet but less than 5,000 square feet shall be completed within 60 calendar days from the date of issuance of the permit or the date specified for beginning work by the permit applicant at the time of permit issuance. § 9-265
- (3) Buildings whose total floor area, including basement or cellar, is over 5,000 square feet shall be completed within 90 calendar days from the date of issuance of the permit or the date specified for beginning work by the permit applicant at the time of permit issuance.
- B. The above time limits shall be extended for such time, not to exceed 14 days, as is expended by the permit holder in removing interior materials, without breaching the outer walls or roof or the security of the windows and doors. Further or other extensions of the above time limits shall not be granted except under circumstances beyond the control of the permit holder. Further extensions will be considered only upon receipt of a written request by the permit holder listing the amount of additional time required, together with the specific circumstances which are beyond his control which in his opinion justify the request. The written request shall be submitted to the buildings division no later than five days prior to the expiration date of the permit.
- C. The Building Official shall review a written request for extension filed under Subsection B and, if he considers the request justified, shall have the authority of approving an extension of up to 30 days. An extension of time exceeding 30 days shall require the approval of the Building Board of Appeals.
- D. Notwithstanding any other provisions of this section, the time limits for wrecking a building exceeding 300,000 square feet of floor area, including basement, may be established by the Building Board of Appeals. Upon application by the permit holder and his showing to the satisfaction of the Board that there has been diligent effort and progress toward completion of the work, the Board may extend the time limits so established.

**§ 9-263. Filling and leveling of premises. [Amended 4-6-1992 by Ord. No. 1529; 12-1-2014 by Ord. No. 1930]**

- A. The premises on which a building or structure is wrecked or from which it has been moved shall be filled and leveled within 10 days after the wrecking or moving operation is completed, except where the excavation is needed or desired for new construction on the premises and a building permit therefor has been applied for or issued. The ten-day period specified above may be extended by the Building Official, if inclement weather has prohibited the filling and leveling of the premises.
- B. Before any fill shall commence, an inspection shall be called for and conducted which verifies that all materials have been removed, any utility lines have been suitably capped, and that any underground slabs have been removed.
- C. There shall be no lath, wood, metal, or other organic matter used for fill in connection with the wrecking or moving of any building or structure.
- D. It shall be the obligation of the building wrecker or mover to provide or obtain suitable locations for disposal of debris resulting from the wrecking or moving operation.
- E. All building materials must be removed and replaced with clean fill to within six inches of final grade.
- F. The final six inches of fill shall consist of top dirt neatly graded and seeded for acceptable ground cover.

**§ 9-264. (Reserved)<sup>62</sup>**

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62. Editor's Note: Former § 9-264, Basement floor slabs to be broken up, was repealed 12-1-2014 by Ord. No. 1930.

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**§ 9-265. Burning on premises.**

There shall be no burning on the premises where a building or structure is being wrecked or from which or to which a building or structure is being moved, without first obtaining permission from the Fire Department. If permission is obtained, all burning shall be done in strict accordance with the Fire Department regulations.

**§ 9-266. Variances.**

The Building Board of Appeals may grant variances to the provisions of this article in cases where there are unusual difficulties or unnecessary hardships, provided such variances will not adversely affect the general health, safety or welfare.

**§ 9-267. (Reserved)**

**§ 9-268. (Reserved)**

**§ 9-269. (Reserved)**

**§ 9-270. (Reserved)**

**§ 9-271. (Reserved)**

**§ 9-272. (Reserved)**

DIVISION 2

Wrecker's or Mover's License

**§ 9-273. Required.**

No person shall engage in the business of wrecking or moving buildings or other structures in the City, unless he has a current license so to do issued by the Building Division.

**§ 9-274. Application.**

Application for a license under this division shall be filed with the Building Division. Such application shall state the location of the registered or main office of the applicant; the location of any local office, and if a corporation, the names of the officers or persons owning the business, as well as the general manager and resident agent thereof. The application shall be accompanied by satisfactory evidence that the applicant has the necessary knowledge and experience to properly conduct wrecking or moving operations.

**§ 9-275. Applicant's insurance. [Amended 9-27-1976 by Ord. No. 1098; 4-24-1978 by Ord. No. 1131; 4-6-1992 by Ord. No. 1529]**

- A. Each applicant for a license under this division shall file with the Building Division a public liability policy, acceptable to the risk manager, insuring the applicant and the City, its agents, and its employees as an additional insured against any liability imposed by law upon the applicant or the City, arising out of the moving or wrecking of any building or structure. Such policy shall provide minimum coverage of \$500,000 for bodily injury or death and \$100,000 for property damage. Such policy shall also provide that it shall not be canceled unless 30 days' written notice is provided to the insured.
- B. The cancellation or lapse of any insurance policy required by this section shall automatically cancel the license issued pursuant to this division and any permit issued under this article.

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**§ 9-276. Fees. [Amended 6-19-2006 by Ord. No. 1804]**

The annual fee for a building wrecker's license shall be \$55, and the annual fee for a building mover's license shall be \$35. The City Commission may by resolution modify these fees.

**§ 9-277. Assignment or transfer prohibited.**

No license issued under this division shall be assigned or transferred.

**§ 9-278. Expiration.**

All licenses issued under this division shall expire on December 31st of each year.

**§ 9-279. Revocation.**

The City Commission may revoke any license granted under this division for violation of this article or other ordinances regulating the wrecking or moving of buildings. No license shall be revoked by the City Commission without a hearing at which the licensee may appear in person or by counsel. The licensee shall be given at least 10 days' notice of the time and place of such hearing.

**§ 9-280. (Reserved)**

**§ 9-281. (Reserved)**

**§ 9-282. (Reserved)**

**§ 9-283. (Reserved)**

**§ 9-284. (Reserved)**

**§ 9-285. (Reserved)**

DIVISION 3  
Wrecking Permit

**§ 9-286. Required; exception.**

Before any person shall commence any wrecking of a building or structure within the City, he shall obtain a permit therefor from the Building Division; provided, however, a wrecking permit shall not be required for minor work incidental to or in connection with the repair or alteration of a building or structure for which a building permit has been issued.

**§ 9-287. Application. [Amended 5-8-1978 by Ord. No. 1132; 4-6-1992 by Ord. No. 1529; 12-20-1999 by Ord. No. 1691]**

A. Except for those structures determined to be a dangerous building, an application for a wrecking permit shall be filed with the City no less than 30 working days before demolition is scheduled to commence and shall contain the following information:

- (1) The street number, property description, type of building or structure, type of construction, width, length and number of stories.
- (2) The number of dwelling units within the structure, when totally or partially residential.

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- (3) The names of all owners of the premises.
- (4) Written consent to the wrecking by all owners.
- (5) Utility notification information.
- (6) Completion date of the wrecking.
- (7) A complete list of any and all substances stored or used on the premises which are, or may become, injurious to the public health or safety.
- (8) A complete description of any barrels, tanks, vats or other containers and their location on the premises or underground. Said description shall include a statement of the substances which are or were stored in said containers.
- (9) Such other information as may be listed on the application and as the Building Official shall deem necessary.

B. Any or all of the above information will be published in the legal notices of the local newspaper.

**§ 9-287.1. Applicant's cash deposit or bond. [Amended 9-27-1976 by Ord. No. 1098; 6-19-2006 by Ord. No. 1804]**

The Building Official may require that each application for a wrecking permit, other than incident to a City demolition contract, be accompanied by a cash deposit, certified check or performance bond in a form acceptable to the City Attorney, and in an amount deemed by the Building Official to be sufficient to permit the City to complete the wrecking and restore the site in the event the permittee should fail to do so within the period of the permit or an authorized extension thereof.

**§ 9-288. Qualifications of applicant. [Amended 9-27-1976 by Ord. No. 1098]**

- A. Wrecking permits may be issued only to persons who are currently licensed as wreckers under Division 2 of this article or to property owners, as authorized by Subsection B below.
- B. A wrecking permit may be issued to the owner of property to wreck or demolish a building or structure owned by him, not exceeding three stories above ground level.

**§ 9-289. Fee. [Amended 6-19-2006 by Ord. No. 1804]**

The fee for a wrecking permit shall be such as is prescribed by resolution of the City Commission and shall be paid at the time the permit application is filed. An investigation fee, not to exceed the amount of the fee for the wrecking permit, may be charged in the event that wrecking operations begin before issuance of the permit by the City.

**§ 9-290. Assignment or transfer prohibited.**

No permit issued under this division shall be assigned or transferred.

**§ 9-291. Inspection. [Amended 6-19-2006 by Ord. No. 1804]**

- A. Before a wrecking permit shall be issued, an inspection of the premises shall be made by the Building Official and such other City officials as may be appropriate to determine whether any substance that could endanger public health or safety is stored or used on the premises.
- B. The inspection shall include, but is not limited to, visual observations, sampling of substances, and use of oxygen and combustion-explosion meters to determine the presence of any of the aforementioned substances.

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C. If any substance which is or may become injurious to the public health or safety is discovered during said inspection, the Building Division shall refer the applicant to the appropriate department of the State of Michigan for proper removal or disposal methods and may require specific procedures for the disposal of such substances as a condition of the wrecking permit. § 9-298

§ 9-292. (Reserved)

§ 9-293. (Reserved)

§ 9-294. (Reserved)

§ 9-295. (Reserved)

§ 9-296. (Reserved)

DIVISION 4  
Moving Permit

§ 9-297. **Required; applicant must be licensed mover in certain cases.**

- A. Before any person shall commence moving a building or structure, he shall obtain a permit from the Building Division.
- B. Only persons who are currently licensed as movers under Division 2 of this article shall be issued permits to move buildings or structures on public property.

§ 9-298. **Filing and contents of application; revocation or modification of permit. [Amended 8-21-2000 by Ord. No. 1706]**

- A. Application for a moving permit shall be filed with the Building Division, or such division or department as the City Manager may designate, at least 30 days before the moving, and shall contain the following information:
  - (1) The street number, property description and names of all owners of the premises from which the building or structure is to be moved.
  - (2) The property description and street number to which the building or structure is to be moved, when located within the City limits.
  - (3) The names of all owners of the property to which the building or structure is to be moved, when the property is within the City limits.
  - (4) The names of all owners of the structure to be moved, if different from the names of owners of the premises.
  - (5) A detailed description of the route to be used.
  - (6) The date and time of moving.
  - (7) Written consent to the moving by all owners.
  - (8) The width, length, height, when loaded, and type of construction of the building. The height measurement shall be from the ground to the highest portion of the building or structure after being loaded.

§ 9-298 (9) Such other information as the Building Official may deem necessary, including information required by the City's policy for Relocation of Structures. A copy of the policy shall be provided to any applicant. § 9-313  
[Amended 6-19-2006 by Ord. No. 1804]

B. The City may at any time prior to or during the relocation of any structure revoke a permit issued under this division to prevent immediate or apparent peril to persons or property. The City may also modify the permit if it determines that the modifications are necessary to protect the public health and welfare. [Added 6-19-2006 by Ord. No. 1804]

**§ 9-299. Approval of application; deposit to cover cost of services rendered by City. [Amended 8-21-2000 by Ord. No. 1706; 6-19-2006 by Ord. No. 1804]**

The application for a permit under this division must be approved by the Building Official the Department of Public Safety, and such other departments as the City Manager may require, and in accordance with the City's policy for Relocation of Structures. Such departments may impose reasonable requirements for the moving and may also require a reasonable deposit to be made with the City at the time the application is made to cover the cost of services rendered by the City during the moving operation. Such deposit shall not be construed as a maximum charge for such service(s).

**§ 9-300. Fee. [Amended 6-19-2006 by Ord. No. 1804]**

The fee for a moving permit shall be such as is prescribed by resolution of the City Commission and shall be paid at the time the permit application is filed. An investigation fee not to exceed the amount of the original fee shall be charged if the moving is commenced prior to issuance of the permit.

**§ 9-301. Building permit as prerequisite to issuance.**

No moving permit shall be issued until a building permit has been issued for the new location, if within the City limits. The building permit shall include a plot plan and all alterations and improvements contemplated.

**§ 9-302. Assignment or transfer prohibited.**

No permit issued under this division shall be assigned or transferred.

**§ 9-303. (Reserved)**

**§ 9-304. (Reserved)**

**§ 9-305. (Reserved)**

**§ 9-306. (Reserved)**

**§ 9-307. (Reserved)**

**§ 9-308. (Reserved)**

**§ 9-309. (Reserved)**

**§ 9-310. (Reserved)**

**§ 9-311. (Reserved)**

**§ 9-312. (Reserved)**



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**§ 9-313. (Reserved)**

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ARTICLE VII  
**Dangerous Buildings**

**[B&H Code §§ BH204 and BH314; amended 11-4-1996 by Ord. No. 1625; 12-1-1997 by Ord. No. 1644;  
6-19-2006 by Ord. No. 1804; 12-1-2014 by Ord. No. 1930]**

**§ 9-314. through § 9-324. (Reserved)**

**§ 9-325. Condemnations of dangerous buildings and structures.**

- A. No person shall maintain any structure or dangerous building as defined in the definition section below. All such structures are hereby declared to be public nuisances as defined by Chapter 21.
- B. The Building Board of Appeals may, after notice to the owner and after holding a public hearing thereon, condemn any structure which is a public nuisance under Subsection A of this section. Such notice shall be given to the owner of the land upon which such structure is located and shall specify in what respects the structure is a public nuisance and require the owner to alter, repair, tear down or remove the structure within such reasonable time as may be necessary to do or have done the work required by the notice. The notice may also provide a reasonable time within which such work shall be commenced and a reasonable time within which such work shall be completed.
- C. If, at the expiration of any time limit specified in the notice given pursuant to Subsection B of this section, the owner has not complied with the requirements of such notice, the City Manager or designee shall carry out the requirements of the notice. The cost of such abatement shall be charged against the premises and the owner.
- D. The Building Official may abate any public nuisance defined in this section, if the public safety requires immediate action, without preliminary order of the Building Board of Appeals. Thereafter, the cost of abating such nuisance shall be charged against the premises and the owner.
- E. In addition, the City may commence legal action against the owner of the premises for recovery of the full cost of abatement, including, but not limited to, demolition, making the premises safe, or maintaining the exterior of the structure or grounds adjoining the structure. A judgment in an action brought pursuant to this section may be enforced against assets of the owner other than the building or structure.

**§ 9-326. Definitions.**

- A. Generally. As used in this article, words and terms shall have the meanings ascribed to them in the building code adopted by § 9-22 and in Chapters § 17 and 21 of this Code,<sup>63</sup> unless indicated to the contrary. The following terms shall have the meanings indicated:

BOARD — The Building Board of Appeals as described in § 9-327.

DANGEROUS BUILDING — Any building or structure which, because of one or more violations of Chapter 9, Buildings and Building Regulations, Chapter 17, Housing Code, and/or Chapter 21, Nuisances, of the City of Kalamazoo Code of Ordinances, is unsafe for occupancy or to the general public, or is a visual blight adversely affecting the general welfare of the area.

**§ 9-327. Building board of appeals.**

- A. For the purpose of carrying out the provisions of this article, or Chapter 17, Article II,<sup>64</sup> a Building Board of Appeals shall be created, consisting of seven members appointed by the City Commission, who meet one or more of the following qualifications:

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63. Editor's Note: See Ch. 17, Housing Code, and Ch. 21, Nuisances.

64. Editor's Note: See Ch. 17, Housing Code, Art. II, Building Board of Appeals.

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- (1) A residential builder, licensed by the state;
  - (2) An architect or engineer, registered in the state;
  - (3) An employee or representative of the general contracting business with experience in nonresidential building construction;
  - (4) An individual with experience in residential and/or commercial property leasing, maintenance, or similar capacity;
  - (5) An owner of residential property existing within the City;
  - (6) An owner of property located in an historic district within the City; and
  - (7) A resident of the City of Kalamazoo.
- B. The City Fire Marshal and the Historic Preservation Coordinator shall be ex officio members of the Board with no voting power.
- C. The Board members shall be residents of the City of Kalamazoo or owners or employees of a business which is located in the City of Kalamazoo, the majority of which are City residents.
- D. Appointments of said Board members shall be for a three-year term except that the initial appointments shall be made up from current members of the Building Board of Appeals and the Housing Board of Appeals, keeping term expiration dates.
- E. The Board shall elect from its membership a Chair, Vice Chair, and such other officers as it deems advisable. The terms of the officers are for one year, and they are eligible for reelection. An employee of the Community Planning and Development Department shall act as recording secretary to receive and distribute all meeting minutes and to perform other relevant functions.
- F. A majority of the members of the Board shall constitute a quorum. A majority of the members is required to take action on all matters not of an administrative nature, but a majority of a quorum may deal with administrative matters. Administrative matters, without limitation, consist of election of offices; amendments to rules of procedure; setting special meetings or adjourning a meeting; changes in meeting dates, times or locations; or similar actions not involving matters arising from this article or Chapter 17, Article II.<sup>65</sup>
- G. The Board shall adopt rules of procedure subject to approval by the City Commission.
- H. All meetings of the Board shall comply with the Open Meetings Act.

### § 9-328. Maintenance prohibited.

It shall be unlawful for any owner or owner's agent to keep or maintain any dangerous building or structure within the City.

### § 9-329. Notice of determination; other remedies.

- A. When the Building Official determines that a building is a dangerous building, the Building Official may:
- (1) Issue a notice of such a determination by mailing it to the owner of the building. Such notice shall be mailed by first-class mail to the owner of the building and to any agent, lessee, mortgagee, or land contract vendee of record of whom the City has actual knowledge; and/or
  - (2) Issue a citation charging the property's owner or agent with a violation of Chapter 9, Chapter 17 or

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65. Editor's Note: See Ch. 17, Housing Code, Art. II, Building Board of Appeals.

- B. If a notice of determination is issued, it shall identify the property at issue and shall contain the following provisions:
- (1) A description of the conditions causing the building to be a dangerous building ("dangerous conditions") and identifying the necessary repairs to correct the dangerous conditions;
  - (2) An indication if permits for performance of work to repair the conditions are necessary;
  - (3) A deadline by which the City must receive a written commitment to perform the necessary repairs;
  - (4) A deadline for the repair of the dangerous building conditions; and
  - (5) An indication that if either of the deadlines mentioned above is not complied with, the Building Official may request that the Building Board of Appeals order that the City may have the building razed or repaired. The cost incurred by the City shall become a lien against the property enforceable in the same manner as delinquent taxes.

**§ 9-330. Request for hearing.**

- A. Any owner who has received such a notice of determination may file a written request for a hearing with the Building Board of Appeals asking that the Board:
- (1) Extend the deadline to perform the required repairs; or if the Building Official desires the property to be razed, allow the owner a reasonable time to repair the dangerous conditions;
  - (2) Determine that the building is not, in fact, a dangerous building;
  - (3) Modify or delete (but not add to) some or all of the required repairs on the grounds that such repairs are unnecessary or excessive; and/or
  - (4) Determine that any aspect of the notice sent by the Building Official is in error, illegal, or unauthorized.
- B. If the Building Official is not satisfied with the response (if any) to the notice of determination he/she previously sent, the Building Official may file a written request for a hearing with the Building Board of Appeals (even if the owner has also made such a request). The request shall ask the Board to order that the building be razed or that the dangerous conditions be repaired, either by the owner or by the City (or the City's designee).
- C. An owner may not file a written request for a hearing before the Building Board of Appeals more than 10 days after the date the City mailed notice to such owner that the Building Official has requested a hearing.
- D. Upon receipt of either of such requests, the City shall schedule a hearing with the Board and shall notify the owner (by first-class mail) of the time and place of the hearing.
- E. If the decision of the Board either under Subsection A or Subsection B does not resolve the situation in a timely manner based on such decision, then either the owner (following Subsection A) or the Building Official (following Subsection B) may request another hearing before the Building Board of Appeals.

**§ 9-331. Hearing.**

- A. At the time and place provided in the notice of hearing, the Board shall conduct the hearing requested by the owner and/or the Building Official. At the hearing, the party who requested the hearing has the burden of proof to present clear and convincing evidence to support the requested relief. The evidence may include

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<sup>66</sup>. Editor's Note: See Ch. 9, Buildings and Building Regulations, Ch. 17, Housing Code, and Ch. 21, Nuisances.  
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written documents, photographs, oral testimony of witnesses or affidavits. For the Board to consider any written documents, photographs or affidavits, those shall be provided to the other party at least five days before the hearing, unless the Board finds good cause for not adhering to that deadline, or the other party has no objection for the Board to consider that evidence. The Board will consider only that evidence that is relevant to the issues before it. The Board may exclude evidence that is irrelevant, immaterial or unduly repetitious. In weighing the evidence, the Board may consider evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs and facts within the general knowledge of the community. The owner shall be entitled to be represented by counsel, to submit evidence, to cross-examine witnesses and to make arguments concerning the factual and legal issues. The Board shall ensure that the entire hearing is recorded.

- B. Within 30 days after the conclusion of the hearing, the Board shall prepare its written decision and mail it, by first-class mail, to the owner and the Building Official. The decision shall be supported by specific findings of fact and shall state:
  - (1) That the relief sought, if any, by the owner is or is not granted, in whole or in part, the terms and conditions of that relief, and the reasons explaining the decision;
  - (2) That the relief sought, if any, by the Building Official is or is not granted, in whole or in part, the terms and conditions of that relief, and the reasons explaining the decision;
  - (3) That the owner is to be allowed a specified and reasonable time during which to repair the dangerous conditions, including any reasonable terms and conditions, and the reasons explaining the decision; and/or
  - (4) That the hearing is adjourned to a later time so that specified additional information can be obtained from the owner and/or the City and presented to the Board.
- C. If the Board's decision is that the dangerous conditions should be repaired by the City or its designee, the decision shall provide a complete list of all repairs necessary to eliminate the dangerous conditions, along with an estimated cost to complete them.

**§ 9-332. Appeal.**

An owner aggrieved by any final decision of the Board under § 9-331 may appeal that decision to the Kalamazoo County Circuit Court, provided that the appeal must be filed within 21 days from the date of the mailing of the Board's decision to the owner, or within such time period as provided by law.

**§ 9-333. Placarding and vacating; abatement of rent.**

- A. If the Board determines that a building is a dangerous building and that it should be razed or repaired, and no petition is filed within the time prescribed by § 9-332 (or such a petition is filed but denied), the Building Official shall post, in a conspicuous place on the dangerous building, a placard describing the Building Board of Appeals' ordered action. No person, other than the Building Official, shall deface or remove the placard.
- B. All occupants of a dangerous building on which a placard was placed under this section shall vacate such building within a reasonable time, as required by the Building Official. No owner or operator shall let to any person for human occupancy, and no person shall occupy or permit anyone to occupy, such dangerous building on which the Building Official has placed a placard indicating the date on which such building is to be vacated. Only when the Building Official has provided the owner with written approval and the placard is removed from the dangerous building may human occupancy again occur. The Building Official shall remove such placard upon the complete repair of the dangerous conditions upon which the Board's decision was based.
- C. If, under the provisions of this section, a dangerous building has been ordered vacated by the Building Official

§ 9-333 and there is no compliance with the order in the time specified, the Building Official may petition the appropriate court to obtain compliance, and the court may order the occupants to vacate the dangerous building forthwith. § 9-339

D. If any dangerous building is occupied after it has been ordered vacated under this section, no rent shall be recoverable for the period of occupancy.

**§ 9-334. Raze or repair.**

- A. If the Board's decision is to have the City raze or repair the building, the City, at its sole option, may either:
- (1) Assume the responsibility of performing the ordered task by use of City employees or by directly contracting with appropriately qualified persons or businesses to perform any or all of such task; or
  - (2) Assign the performance of the ordered task, by contract, to a receiver, who shall then assume the responsibility to perform, at its own expense, such task (by either its own employees or those with whom the receiver contracts).
- B. If the City elects to perform the ordered task, either through its employees, third-party contractor or receiver, the owner shall reimburse the City for all costs it incurred in the effort (including reasonable administrative costs and expenses).

**§ 9-335. Receiver bids.**

If the City elects to contract the responsibility for razing or repairing the building to a receiver, the City shall put the matter out for bid, pursuant to established City procedure.

**§ 9-336. Receiver control.**

- A. If the City contracts with a receiver under § 9-335, the receiver shall:
- (1) Be granted total control of the building and its premises to the extent necessary to cause the repairs to be performed; and
  - (2) Keep complete records of all work performed (materials and services) on the building.

**§ 9-337. Receiver invoice.**

Upon completion of the work required of the receiver by the contract, the receiver shall submit to the City a complete invoice listing all of the work performed and the cost (materials, supplies and services).

**§ 9-338. Demand for payment.**

- A. Upon the completion of the raze or repair by either the City or the receiver, the City shall mail an invoice to the owner demanding payment by the owner of the cost incurred by the City or, if a receiver performs the ordered task, the amount of the receiver's bid to the City.
- B. The owner shall pay the invoice within 30 days of the date on the invoice. If the owner fails to pay the invoice within such thirty-day period, the City, at its sole option, may pursue all of its legal and equity remedies under § 9-339.

**§ 9-339. Remedies for nonpayment.**

- A. Declare the amount owing as a lien against the property and enforce collection in the same manner as delinquent property taxes, including accruing interest and administrative fees as allowed by law regarding delinquent taxes.

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- B. File suit in the appropriate court in Kalamazoo County seeking a money judgment as if the amount owed by the owner is past due for an open account.
- C. Commence foreclosure proceedings against the owner pursuant to applicable laws, including the power to sell the subject real estate at public auction by advertisement, without notice or hearing, except as required by Michigan statutes.
  - (1) If the proceeds from a foreclosure sale are insufficient to pay the sum due, the City may recover said deficiency in the same manner as delinquent property taxes.
- D. Any judgment, including the cost for reasonable attorney fees incurred, obtained by the City shall bear interest at the statutory allowed rate for money judgments.

**§ 9-340. Purchase by receiver.**

The receiver may bid at the foreclosure sale; if its bid is the highest bid, the sum due to it (as determined by the court) may be applied to said bid (so as to reduce the sum otherwise payable by the receiver).

**§ 9-341. Recovery of deficiency.**

- A. If the proceeds from a foreclosure sale are insufficient to pay the sum ordered by the court, the City may recover said deficiency:
  - (1) By directing the Assessor to add the amount due to the next tax roll of the City such that said sum is collected in the same manner as provided by law for collection of taxes; or
  - (2) By petitioning the court, in the foreclosure action, for the entry of a civil money judgment.

**§ 9-342. Alternative means of recovery.**

- A. If the sum demanded by the City from the property's owner is not timely paid and the City elects not to pursue a foreclosure sale, the City may recover said sum:
  - (1) By directing the Assessor to add the amount due to the next tax roll of the City such that said sum is collected in the same manner as provided by law for collection of taxes; or
  - (2) By filing suit in the appropriate court requesting the entry of a civil money judgment.

**§ 9-343. Lis pendens.**

Upon commencement of razing or repairing the dangerous building, the City may record a notice of lis pendens with respect to the future claim the City will assert (in its own name and/or on behalf of the receiver) for the costs to raze or repair such building.

**§ 9-344. Exercise of control.**

From the time repairs commence by the City, including through a third-party contractor or through a receiver, until the time the cost of those repairs is fully paid by the owner, the owner shall exercise no control over the building nor occupy nor cause or allow another to occupy such dangerous building.

**§ 9-345. Fees for recovery of costs of actions.**

- A. The City Commission may, by resolution, establish reasonable fees for covering the costs of actions taken by the Building Official and/or the Building Board of Appeals in enforcing the terms of §§ 9-314 through 9-345.
- B. The means of recovering costs set forth in §§ 9-338 through 9-343 shall also apply to the recovery of said



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costs of actions.

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**§ 9-346. through § 9-350. (Reserved)**<sup>67</sup>

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**67. Editor's Note: Former Art. VIII, Abandoned Residential Structures, adopted 1-6-2003 by Ord. No. 1753, which immediately followed, was repealed 4-15-2019 by Ord. No. 1982.**



ARTICLE VIII  
**Emergency Housing**  
**[Adopted 12-6-2021 by Ord. No. 2040]**

**§ 9-351. Purpose.**

- A. The City Commission recognizes that homelessness is an ongoing problem within the City and that a need exists for places where persons experiencing homelessness can go for emergency shelter.
- B. The City Commission, pursuant to § 13(b) of the City Charter, declares addressing the problem of homelessness to be an emergency due to the rise in the number of homeless individuals in the Kalamazoo area, the lack of housing options for homeless individuals who choose to or cannot stay at traditional homeless shelters, and a lack of safe temporary or transitional housing until more permanent options can be found.
- C. Nonprofit, religious, and other service providers within the City have demonstrated a willingness to provide temporary shelters to address this emergency need. To ensure that temporary emergency shelters provide a safe environment for those using them, certain fire and life safety matters must be addressed when providing or operating a temporary emergency shelter.
- D. The City, other governmental units and agencies, religious and nonprofit organizations, and homeless service providers need to work together to ensure that both those who are experiencing homelessness and utilizing temporary emergency shelters, and those property owners and residents neighboring a temporary emergency housing facility, are safe, and potential negative effects are limited.

**§ 9-352. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**COOKING FACILITIES** — Facilities for the storage, preparation, and cooking of food, including fixtures, appliances, counters, cabinets, sinks, plumbing or wiring integrated and used for the installation of such facilities that are included as part of a temporary emergency shelter in its manufacture or construction. "Cooking facilities" shall also include an electric kettle that can only be used for heating water and a coffee maker. "Cooking facilities" do not include small appliances such as toaster ovens, electric fry pans, hot plates, electric rice cookers, Crock-Pots, electric woks, and electric grills and griddles, camping or other portable stoves, or grills and barbeques.

**GOVERNMENTAL UNIT OR AGENCY** — A governmental unit or agency engaged in aiding and assisting homeless persons.

**HOMELESS SERVICES PROVIDER** — A charitable organization whose primary objectives are aiding and assisting homeless persons.

**LOT** — That term as it is defined in § 12.3 of Appendix A, Zoning Ordinance.

**NONPROFIT ORGANIZATION** — A charitable or other legal entity organized and operated for a collective, public, or social benefit that assists disadvantaged or homeless persons in obtaining housing.

**PROPERTY OWNER** — The owner of property where a temporary housing facility is, or is proposed to be, located.

**RELIGIOUS ORGANIZATION** — Churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion, as well as engaging in charitable purposes, including but not limited to aiding homeless persons.

**SERVICE AMENITIES** — Restrooms, handwashing stations, shower and bathing or other amenities that are provided by the service provider as required or permitted by § 9-356E.

**SERVICE PROVIDER** — A nonprofit organization, religious organization, governmental unit or agency, or

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homeless service provider as those terms are defined in this article.

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**TEMPORARY EMERGENCY SHELTER or SHELTER** — A small, enclosed structure, other than a tent, vehicle, recreational vehicle, or camping trailer, for the occupancy of one or more persons that meets the provisions of § 9-356, and which provides temporary living space that is capable of being dismantled or moved and is not permanently affixed to the ground or connected to the municipal water or sewer system through a connection other than a permitted temporary connection.

**TEMPORARY EMERGENCY HOUSING FACILITY or FACILITY** — One or more lots within the City upon which is located one or more temporary emergency shelters by a service provider that complies with § 9-356 and is consistent with all other provisions of this article.

**TEMPORARY SERVICE STRUCTURE** — A structure that is capable of being dismantled and moved and is not permanently affixed to the ground or connected to the municipal water or sewer system through a connection other than a permitted temporary connection in which are provided service amenities. "Service structure" does not include a building that existed at the time a temporary housing facility is established and that is used to provide service amenities.

### **§ 9-353. Permits.**

- A. Permit required. Any service provider desiring to establish or operate a temporary emergency housing facility shall obtain a permit from the City.
- B. Application process. Permit applications shall be submitted on forms provided by the Department of Community Planning and Economic Development.
- C. Facility plan. Applications shall be accompanied by a plan that includes a sketch or drawing of the proposed temporary emergency housing facility per the permit application requirements.
- D. Cost of permit. There shall be no cost for review of the facility plan, nor for permits issued under this emergency article. Costs may be assessed for other permits required under this Code of Ordinances.
- E. Permit review and approval. The Director of the Department of Community Planning and Economic Development or their designee will review the permit application and accompanying materials and approve, approve with conditions, or deny the permit within 30 days of receipt of a complete permit application. Approvals are subject to:
  - (1) Memorandum of understanding. The service provider, the property owner, and the City entering a memorandum of understanding that complies with § 9-355.
  - (2) Other permits. The service provider obtaining all building, mechanical, electrical, plumbing, or other permits that may be required by this Code of Ordinances.
  - (3) Informational meeting. The service provider will hold a public informational meeting as part of the permit review process. The meeting must be advertised at least seven days in advance of the date by the following methods:
    - (a) Notice to the neighborhood association (if one exists) where the proposed facility will be located.
    - (b) Notice to adjacent property owners and occupants within 300 feet of the proposed facility. Public meeting notice may be hand delivered or mailed.
- F. Appeal of permit denial. A service provider may appeal the denial of a permit to the City Manager by filing a written notice of appeal within 10 business days of the date of denial of a permit. The City Manager or their designee shall address the appeal within 10 business days from the date of receipt of the notice of appeal. The notice of appeal shall identify the reason or reasons for reversal of the permit denial. The City Manager will consider the appeal and make a decision affirming, rejecting, or modifying the denial being appealed. In

§ 9-353 considering any such appeal, the City Manager may consider the recommendations of City staff and the written comments of other persons having knowledge of the matter. In considering all such appeals, the City Manager may grant a variance from the terms of this article to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied: § 9-355

- (1) The application of the provisions of this article being appealed will present or cause unreasonable difficulties for the provider of the proposed temporary emergency housing facility; and
- (2) The granting of the relief requested will substantially achieve the goals and purposes sought to be accomplished by this article.

**§ 9-354. Final inspection prior to opening.**

Final inspection and certificate of completion. Before a temporary housing facility may open and begin operation, the Director of the Department of Community Planning and Economic Development or their designee shall conduct a final inspection of the facility to ensure that the facility is in compliance with this article and Code of Ordinances prior to issuing a certificate of completion.

**§ 9-355. Memorandum of understanding.**

- A. Memorandum required. The service provider seeking a permit under this article shall enter a memorandum of understanding with the City before a permit is issued and the beginning of construction and/or operation of the temporary emergency housing facility. The memorandum of understanding will address issues that will protect the public health and safety of both the residents of the temporary emergency housing facility and the residents of the City.
- B. Minimum requirements. At a minimum, the memorandum of understanding must include information regarding:
  - (1) Number of facility occupants. The maximum number of occupants permitted at a facility at any one time will be agreed to through the memorandum of understanding. In reviewing the proposed number of occupants, the following factors will be considered:
    - (a) Facility location.
    - (b) Level of on-site and/or twenty-four-hour staffing.
    - (c) Facility layout.
    - (d) Access to transit and adjacent services and/or daily needs.
    - (e) Capacity of service provider.
    - (f) All other provisions of the memorandum of understanding regarding management, operations, and community living guidelines.
  - (2) How the residents will be able to access social services on the site of the facility.
  - (3) Contact information for the person responsible for managing the temporary emergency housing facility. The service provider shall immediately update the Director of the Department of Community Planning and Economic Development with this information in the event the manager or their contact information changes.
  - (4) A plan for management, operations and community living guidelines of the facility, including the following:
    - (a) Minimum/maximum length of stay.

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- (b) Termination of occupancy policy.
  - (c) Warning and infraction policy.
  - (d) Alcohol and drug use policy.
  - (e) Visitor policy.
  - (f) Bicycle or vehicle allowance and parking.
  - (g) Pet allowances, including type and number permitted, pet registration, and veterinary care.
  - (h) Quiet hours.
  - (i) The security measures that will be implemented at the facility, including but not limited to twenty-four-hour staffing, secured entrances, or controlled access management.
  - (j) How the shelters and the immediate space surrounding each shelter will be maintained between occupants, including but not limited to cleaning and review of all mechanical equipment and other elements to ensure that the equipment and elements are in a safe and operable condition.
  - (k) How the shelters and the immediate space surrounding each shelter will be maintained when occupants are not turning over, including but not limited to the interval for cleaning and/or review of mechanical equipment and other elements to ensure safe and operable condition.
  - (l) How the facility will be maintained through inclement weather to ensure emergency access.
  - (m) How the residents can directly interact with the service provider, including how residents can express concerns regarding the management of the facility to the service provider.
- (5) A requirement that the service provider work with the local agencies administering the homeless client management information system.
  - (6) That the service provider will not refuse to host any resident or prospective resident because of age, sex, marital status, sexual orientation, race, creed, color, gender identity, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a service animal by a person with a disability.
  - (7) An acknowledgement of the termination date of this article set forth at § 9-357 and plan for removing the temporary emergency shelters, service amenity structures, other infrastructure, and refuse, junk, and debris from the facility.
  - (8) An acknowledgement that the management and operation of the temporary housing facility will be made consistent with Chapter 18, Nondiscrimination, of this Code of Ordinances.
  - (9) An acknowledgment that the Director of Community Planning and Economic Development or their designee may from time to time inspect the temporary housing facility to ensure compliance with this article and Code of Ordinances consistent with § 9-356L.
  - (10) The memorandum of understanding must be signed by an authorized representative of the service provider and the property owner, and the Kalamazoo City Manager or the designee of the City Manager.

**§ 9-356. Temporary emergency housing facilities and temporary emergency shelters.**

The following provisions apply to temporary emergency housing facilities and temporary emergency shelters:

- A. Location. Temporary emergency housing facilities and temporary emergency shelters must be located on property owned or controlled by a service provider granted a permit under this article.

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- B. Construction and compliance with codes. Temporary emergency shelters shall have a means of heating the shelter and the shelter must be constructed or installed, and any utilities and cooking facilities provided to the shelter must be connected, consistent with the building, mechanical, electrical, and fire codes of this Code of Ordinances.
- C. Improved surface. A temporary emergency housing facility will provide improved surfaces for ingress and egress, and for parking areas and walkways within the facility.
- D. Distance between shelters and structures. If a shelter or structure is under 200 square feet in area, a separation distance of 10 feet will be required between the shelter or structure and another shelter or structure. The distance between shelters or structures 200 square feet or larger and another shelter or structure shall be determined as provided in the Building Code. Shelters and structures shall be set back at least 20 feet from the property line of the lot upon which they are located.
- E. Shelter occupancy. The permitted occupancy of each shelter will be based upon manufacturer or design specifications.
- F. Doors, windows, and locks. Doors and windows of the temporary emergency shelter must be included and be lockable. The service provider shall possess keys to each temporary emergency shelter and temporary service structure. These keys must be kept in a Knox-Box<sup>®</sup> or other secured key vault with access provided to the Kalamazoo Department of Public Safety.
- G. Fire extinguisher. Every temporary emergency structure and shelter shall have its own fire extinguisher and smoke detector.
- H. Cooking. Cooking within a shelter is prohibited unless the shelter is equipped with cooking facilities and has approved temporary connections to municipal water, sewer, and electrical utilities. An electric kettle that can only be used for the heating of water and a coffee maker are permitted.
- I. Outdoor storage of personal items. Outdoor storage of personal items is not permitted, except for personal vehicles or bicycles which are permitted in designated parking areas.
- J. Temporary service structures and service amenities. If the temporary emergency shelters in the temporary housing facility are not connected to a municipal water and sewer system, the service provider shall make available service amenities, including restrooms, handwashing stations, shower and bathing facilities, and potable running water, including accommodations for black water, sufficient for the number of persons that may be accommodated by the temporary housing facility. Adequate service amenities may be inside a temporary service structure or an existing structure on site, or may be portable facilities, provided that those facilities are available at all times of day and night.
- K. Temporary service structures for social services. The service provider may utilize a temporary service structure or portion of an existing structure on site for the provision of social services to residents of the temporary emergency housing facility.
- L. Legal limitations of property owners and individuals seeking temporary shelter. Nothing in the article shall be construed as:
  - (1) Authorizing a continuing nonconforming use under City zoning ordinance; the use of property for a temporary emergency housing facility is authorized under the City's police powers and does not grant the property owner any future right to maintain the use otherwise in violation of the City Zoning Code.
  - (2) Granting a person using and occupying a temporary emergency shelter a right of tenancy; the use of shelter under this article is a revocable license and does not grant any property or tenancy rights.
- M. Inspections. The Director of Community Planning or their designee may, in his or her discretion, inspect the temporary emergency housing facility, temporary emergency shelters, and temporary service structures to

§ 9-356 ensure compliance with this article and Code of Ordinances upon twenty-four-hour notice given to the § 9-358 person responsible for managing the temporary housing facility via email and telephone using the contact information provided by the service provider.

**§ 9-357. Termination or revocation.**

This article will terminate and no longer remain in effect after December 1, 2023. Upon termination of this article, or revocation of a permit pursuant to § 9-358, any person or entity operating a temporary emergency housing facility shall immediately remove all temporary emergency shelters, temporary support structures, support amenities and related infrastructure, along with all refuse, junk, and debris from the premises where the temporary emergency housing facility is situated. The removal of any building or structure that existed prior to the establishment of the temporary housing facility will not be required. Failure to remove such items as required by this section shall be deemed a public nuisance. The provisions of this section notwithstanding, the temporary emergency housing facility may continue operation upon the termination of this article if then authorized by another provision of this Code.

**§ 9-358. Violations and penalties.**

Any violation of this article, including a failure to carry out any of the terms and provisions of the memorandum of understanding, will be grounds for revocation by the Director of the Department of Community Planning and Economic Development of a permit issued pursuant to § 9-353, and is a municipal civil infraction punishable by a fine of \$500 which may be levied against the service provider and property owner, and/or any owner, president, legal representative, director, board member, or manager of the service provider or property owner. Each day of unlawful operation constitutes a new and separate offense.



**Chapter 10**  
**CEMETERIES**



§ 9-358

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 7-25-1977 by Ord. No. 1120.<sup>88</sup> § 9-358  
Amendments noted where applicable.]**

STATUTORY AUTHORITY

Cemeteries — See MSA § 5.3165; MCLA § 128.1 et seq.

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68. Editor's Note: This ordinance also repealed §§ PS604 to PS604.21 of the Public Service Code, from which Ch. 10, relative to cemeteries, was formerly derived.



ARTICLE I  
In General

**§ 10-1. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

**CEMETERY** — Any cemetery owned or operated by the City and, where appropriate to the context, the word shall include the officials in charge of the cemetery.

**GRAVE SITE** — Any area designated for the interment of a single body and shall include a crypt, vault, niche or any other burial space.

**INTERMENT** — Includes the permanent disposition of the remains of a deceased person by cremation and interment, entombment or burial.

**LOT** — Any area shown on the map of the cemetery as a single unit. It may contain any number of grave sites as designated by the cemetery.

**MEMORIAL** — Includes a monument, marker, tablet, headstone, tombstone, coping, lot enclosure, or like devices.

**PRIVATE BURIAL STRUCTURE** — Any tomb, sarcophagus, mausoleum, columbarium, or like structure erected by the owner of a lot or burial unit. Each burial space in the structure shall be considered a grave site.

**§ 10-2. Application of chapter; effect of reference to chapter in documents.**

All owners and visitors within a cemetery, and all grave sites sold, shall be subject to the provisions of this chapter, and any reference to this chapter in any document shall have the same force and effect as if set forth in full therein.

**§ 10-3. To be operated and maintained by Director of Department of Public Services. [Amended 9-7-1982 by Ord. No. 1268]**

It shall be the duty of the Director of the Department of Public Services to maintain and operate all municipally owned and operated cemeteries. An employee of the Department shall be designated the Superintendent of Cemeteries.

**§ 10-4. Rules and regulations of City Manager.**

The City Manager is hereby authorized to promulgate rules and regulations, consistent with the provisions of this chapter, governing conduct, work and other activities in City cemeteries and governing the operation, maintenance and management of such cemeteries, including fees to be charged. Such rules and regulations shall be subject to approval by the City Commission. When so approved, it shall be unlawful for any person to violate any provision of such rules and regulations.

**§ 10-5. Sale of lots and grave sites.**

All lots and grave sites shall be sold according to the map of the respective cemeteries adopted by the City Commission and full payment must be made before the purchaser thereof shall receive the certificate of ownership from the City Clerk. Fractions of lots may be sold, in the discretion of the cemetery.

**§ 10-6. Grave site owners to give notice of change of address.**

It shall be the duty of the grave site owner to notify the cemetery of any change in his or her post office address. Notice sent to a grave site owner at the last address on file in the office of the Superintendent of Cemeteries shall be considered sufficient and proper legal notification.

**§ 10-7. General rights of grave site owner.**

- § 10-7
- § 10-12
- A. All cemetery grave sites conveyed shall be presumed to be the sole and separate property of the person named as grantee in the instrument of conveyance; provided, however, that a surviving spouse shall have a right of interment in a lot or grave site when there is sufficient space.
- B. In all conveyances to two or more persons as joint tenants, each joint tenant shall have a right of interment of his or her remains in the grave sites so conveyed. Upon the death of a joint tenant, the grave sites theretofore held in joint tenancy immediately vest in the survivor or survivors, subject to the right of interment for the remains of the deceased joint tenant.
- C. A right of interment as in this section provided may be waived and shall be terminated upon the interment elsewhere of the remains of a person entitled thereto.

**§ 10-8. Burial unit inalienable by interment; right of owner's family to interment.**

Whenever an interment is made in a lot that has been conveyed to an individual owner by the cemetery, the whole of such lot thereby becomes inalienable and shall be held as the family lot of the owner, in which one grave site may be used for the owner's interment, one for the interment of the surviving husband or wife of the owner and in those remaining, the parents and children of such deceased owner may be interred, in the order of need, without the consent of any person claiming any interest therein. In the event there shall be no parent or child surviving such deceased, the right of interment therein shall go the next heirs at law of the deceased owner, as specified by the statutes of descent. Any surviving husband or wife and any parent, child or heir of such deceased owner may waive his or her right to interment in said lot in favor of any other relative of such deceased owner, and upon such waiver, the body of the person in whose favor the waiver is made may be interred therein.

**§ 10-9. Descent of rights in empty lot or grave site.**

If no interment has been made in a lot or grave site which has been conveyed to an individual owner by the cemetery, or if all bodies have been lawfully removed therefrom, in the absence of the specific disposition thereof by the owner's last will and testament, the whole of said lot or grave site, except the one grave site which must be reserved to the surviving husband or wife of the owner, shall, upon the death of the owner, descend in regular line of succession to the heirs at law or the owner.

**§ 10-10. Transfer of lots or grave sites.**

- A. No transfer or assignment of any cemetery lot or grave site shall be valid without the consent, in writing, of the Superintendent of Cemeteries.
- B. The transfer of title shall be made by the City Clerk upon receipt of a quitclaim deed to the City by the title holder, together with the letter of approval issued by the Superintendent of Cemeteries.
- C. The cemetery may act as agent for owners of lots or grave sites who wish to resell them. The purchaser of such lots or grave sites shall pay the current price for the sections in which they are located. Upon receipt of the purchase price, the cemetery shall refund to the original owner the amount paid at the time of purchase, the balance to be retained by the City.

**§ 10-11. Subdivision of grave sites not allowed; burial of persons not having an interest in the grave site. [Amended 12-10-1979 by Ord. No. 1180]**

The subdivision of grave sites is not allowed, and no one shall be interred in any grave site in which he does not have an interest, except by written consent of all parties interested in such grave and of the Superintendent of Cemeteries; or as otherwise provided by this chapter or state law. Except as provided by ordinance or rule, there shall be only one burial per grave site. With the approval of the cemetery, given at the time of the first interment, two bodies may be buried in a single grave. A container containing the cremated remains of a single body may be placed on a grave site in which a previous interment has been made, if done under the supervision of the cemetery.

§ 10-12

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**§ 10-12. Private burial structure; approval of plans.**

Before any private burial structure is erected, its plan must be approved in writing by the Superintendent of Cemeteries.

**§ 10-13. (Reserved)**

**§ 10-14. (Reserved)**

**§ 10-15. (Reserved)**

**§ 10-16. (Reserved)**

**§ 10-17. (Reserved)**

**§ 10-18. (Reserved)**

**§ 10-19. (Reserved)**

**§ 10-20. (Reserved)**

**§ 10-21. (Reserved)**

**§ 10-22. (Reserved)**

**§ 10-23. (Reserved)**

**§ 10-24. (Reserved)**





ARTICLE II  
Perpetual Care

**§ 10-25. Care of lots and grave sites. [Amended 11-15-2004 by Ord. No. 1778]**

- A. Owners of lots and grave sites will secure perpetual care of the same upon payment of the charges prescribed by the cemetery rules. If the lot or grave site is not in proper condition, as determined by the Superintendent, the owner shall pay such additional charges as are necessary to put it in condition for perpetual care. Charges for such work will be based on a price to be furnished in advance by the Superintendent. No lots or grave sites shall be sold unless provision is made for perpetual care.
- B. The term "perpetual care" shall mean cutting grass, raking and cleaning, pruning of shrubs and trees, and the making of capital improvements to the cemetery, such as constructing or repairing roads or sidewalks within the cemetery, or replacing foundations for existing grave sites.

**§ 10-26. Care of private burial structures.**

- A. Before any private burial structure is erected in the cemetery, the proprietor must deposit with the cemetery a sum of money estimated by the Superintendent to be sufficient to yield an income for proper care of such structure in perpetuity.
- B. The term "perpetual care," as applied to a private burial structure, shall mean the cleaning and sweeping of the building at reasonable intervals, the replacement of broken glass, the keeping of the roof in repair, proper provision of locks and doors to prevent the entrance of prowlers or undesirable persons.

**§ 10-27. Exceptions. [Amended 11-15-2004 by Ord. No. 1778]**

Unless stated to the contrary within this article, the term "perpetual care" shall in no case be construed as meaning the maintenance, repair or replacement of any private burial structures or memorials; nor the planting or cost of flowers or ornamental plants; nor sprinkling water; nor the maintenance or doing of any special or unusual work in the cemetery; nor does it mean the reconstruction of any memorial or private burial structure or other buildings or structures, made necessary by injuries caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief-makers, explosions, unavoidable accidents, invasions, riots, insurrection, or by the order of any military or civil authority, whether the damage be direct or collateral.

**§ 10-28. Perpetual care fund.**

All funds paid for perpetual care shall be placed by the Director of Finance to the credit of a fund known as the "perpetual care fund" to be administered by the City Commission, and to be held in trust and invested by the City Commission, as provided by law, and the interest thereon shall be used for the care and maintenance of lots and grave sites entitled to perpetual care.

**§ 10-29. Special care.**

A lot or grave site owner may enter into an agreement with the cemetery for special care, which shall include only those specific services set forth in the agreement. Special care funds shall be invested with and in the same manner as perpetual care funds.

**§ 10-30. Perpetual Care Investment Committee and management of funds. [Added 11-15-2004 by Ord. No. 1778]**

There is hereby created a Perpetual Care Investment Committee (PCIC) that shall manage the assets of the system and have full power to invest and reinvest such assets, subject to the provisions of applicable law. The Committee shall have the power to purchase notes, bonds, or other obligations of the City before or after the same are offered

§ 10-30 to the public, with or without advertising for bids. The Committee shall have power to hold, purchase, sell, assign, transfer, and dispose of any securities and investments in which any of the funds of the system have been invested, as well as the proceeds of such investments and any monies belonging to the system. The provisions of this section shall be subject to such conditions and restrictions as the City Commission may hereafter impose by resolution. § 10-32

**§ 10-31. Perpetual Care Investment Committee; membership, appointment, duties. [Added 11-15-2004 by Ord. No. 1778]**

- A. Membership, appointment. The PCIC shall consist of no less than three nor more than five members, all of whom shall also serve on the Retirement Investment Committee (RIC). Said members shall be appointed by the City Commission upon the recommendation of the RIC Chair; their term on the PCIC shall be concurrent with their term on the RIC.
- B. The PCIC members shall serve without compensation and if any member fails to attend three consecutive regularly scheduled meetings of the Committee, unless in each case excused for cause by the remaining members, his or her office will be deemed vacated. Within 60 days of any time that the number of Committee members becomes less than three, the Chair of the RIC shall appoint enough new members from the RIC to the PCIC so that the PCIC consists of at least three members.
- C. The Committee shall hold meetings regularly, at least quarterly, and shall designate the time and place thereof. A majority of the Committee's membership shall constitute a quorum at any meeting of the Committee. Each member shall be entitled to one vote on each question before the Committee; at any meeting with a quorum, decisions shall be made by affirmative vote of a majority of those present; except that should the Committee's membership become three, the entire membership shall constitute a quorum and all decisions shall be made by a unanimous vote of the entire membership. The Committee shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the Committee shall be open to the public. The City Commission may appoint a Commissioner as liaison to the Committee.
- D. Officers. The Committee shall elect a chairman and chairman pro tem; the Director of Finance shall serve as secretary to the Committee and provide staff support.
- E. Duties. The duties of the Investment Committee shall be as follows:
  - (1) To formulate and recommend to the City Commission investment policies, strategies, and guidelines for approval by the City Commission;
  - (2) To carry out such investment policies, strategies, and guidelines as approved by the City Commission;
  - (3) To establish investment performance monitoring systems and report the results of said system quarterly to the City Commission;
  - (4) To insure that investment records are properly maintained;
  - (5) To serve as the primary contact with investment managers and advisors;
  - (6) To insure that the plan is properly audited; and
  - (7) To perform such other duties as the City Commission may from time to time direct.

**§ 10-32. Available cash and use of assets. [Added 11-15-2004 by Ord. No. 1778]**

- A. There shall be kept on deposit available cash not to exceed 5% of the total assets of the system. All assets of the system shall be held for the sole purpose of meeting disbursements for allowable expenses, as authorized by this article and shall be used for no other purpose.
- B. Payment of expenses relating to perpetual care shall be paid from investment income.

**Chapter 11**  
**CITY BUS SYSTEM**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in article histories. Amendments noted where applicable.]**

**CHARTER REFERENCE**

Authority of City to own and operate transportation facilities — See § 157A.

**GENERAL REFERENCES**

Carrying explosives or flammable liquids on buses — See § 15-1.

Establishment and use of bus stops — See § 36-180.

Spitting on floors of public conveyances — See § 22-9.

Restriction on standing or parking of buses on streets — See § 36-181.

Traffic — See Ch. 36.

City buses exempt from ordinance regulating passenger carriers — See § 37-3.



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ARTICLE I  
(Reserved)<sup>69</sup>

§ 11-1. (Reserved)

§ 11-2. (Reserved)

§ 11-3. (Reserved)

§ 11-4. (Reserved)

§ 11-5. (Reserved)

§ 11-6. (Reserved)

§ 11-7. (Reserved)

§ 11-8. (Reserved)

§ 11-9. (Reserved)

§ 11-10. (Reserved)

§ 11-11. (Reserved)

§ 11-12. (Reserved)

§ 11-13. (Reserved)

§ 11-14. (Reserved)

§ 11-15. (Reserved)

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69. Editor's Note: Former Art. I, §§ 11-1 through 11-5, relative to the Department of Transportation, was repealed 9-7-1982 by Ord. No. 1268. Said former provisions derived from Adm. Code, §§ A215.6 through A215.9, A215.12 and A215.13.





ARTICLE II  
**Transportation Advisory Board**  
**[Derived from Adm. Code §§ A215.10, A215.11]**

**§ 11-16. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

BOARD — The Transportation Advisory Board created by § 11-17.

**§ 11-17. Created; composition; appointment and terms of members.**

There is hereby created a Transportation Advisory Board consisting of eight members, a majority of whom shall be qualified electors of the City, appointed by the City Commission. Their terms shall be for a period of three years. Vacancies in the membership of the Board shall be filled by appointment by the City Commission, and when filled, the person so appointed shall serve for the unexpired term of the person vacating the office.

**§ 11-18. Member not to hold other City position.**

No member of the Board shall hold any salaried position in the municipal service or be a member of the City Commission.

**§ 11-19. Election of officers.**

The Board shall elect a chairman and such other officers as it may desire, from its own members.

**§ 11-20. Powers and duties. [Amended 5-31-1988 by Ord. No. 1441]**

A. The duties and function of the Board shall be of an advisory nature only to the City Commission, Board of Directors of the Kalamazoo Transit Authority, and the City Manager. The Board shall:

- (1) Adopt rules and make regulations for its own activities.
- (2) Consult with and make recommendations to the Board of Directors of the Kalamazoo Transit Authority and the City Manager as to any activities involving the City's motor bus transportation facility.
- (3) Have access to all records, information and data concerning the activities and operations of the Department of Transportation.
- (4) Have the privilege of visiting and inspecting all buses, property and assets of the City's motor bus transportation facility.
- (5) Make recommendations regarding rates, routes, service, equipment and other aspects of the operation of the motor bus transportation facility of the City.



**Chapter 12**  
**CIVIL DEFENSE**



§ 11-20

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 3-15-2021 by Ord. No. 2026<sup>70</sup>.  
Amendments noted where applicable.]**

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STATUTORY REFERENCES

Emergency Management Act — See MCLA § 30.401 et seq.

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70. Editor's Note: This ordinance amended in its entirety former Ch. 12, Civil Defense, which comprised Art. I, In General, derived from Adm. Code § A223, as amended; and Art. II, Continuity of Government in Event of Attack, derived from Adm. Code § A226.



**ARTICLE I**  
**In General**

**§ 12-1. Purpose and intent.**

It is the intent and purpose of this chapter to provide the policy and organization for the complete and efficient utilization of all municipal resources for the mitigation, preparedness, response and recovery from natural and human-made disasters and emergencies, within the City of Kalamazoo, to establish an office for this purpose; and to exercise the authority and discharge the responsibilities vested in City elected and appointed officials by this chapter and the Emergency Management Act, No. 390, Public Acts of 1976, as amended, and related federal and state laws.

**§ 12-2. Coordinating agency; other agencies.**

- A. The City of Kalamazoo Office of Emergency Management will be the coordinating agency responsible for City-wide emergency preparedness; it will provide the means through which the City Manager, Mayor and City Commission may exercise the authority and discharge the responsibilities vested in them by this chapter and Emergency Management Act.
- B. This chapter does not relieve any elected officials or City departments of the normal responsibilities or authority given by general law or local ordinance, nor will it affect the work of the American Red Cross or other volunteer agencies organized for relief in a disaster.

**§ 12-3. Definitions.**

As used in this chapter, the following words shall have the meanings ascribed to them in this section:

**ACT** — The Michigan Emergency Management Act, Act No. 390 of the Public Acts of 1976, as amended.

**ATTACK** — Any attack or series of attacks by a foreign or domestic enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner, by sabotage or by the use of bombs, missiles, shellfire or atomic, radiological, chemical, bacteriological or biological means or other weapons or processes.

**CHIEF EXECUTIVE OFFICIAL** — The Mayor or the successor designated by the City Charter, or otherwise provided for in this chapter.

**CITY** — The City of Kalamazoo, Michigan.

**CIVIL DEFENSE** — The preparation for, and the execution of, all emergency functions, other than functions for which the military forces are primarily responsible. Civil defense shall include protection against, and minimization of damage and injury resulting from, natural disaster, foreign or domestic enemy attack, sabotage, or other hostile action.

**DISASTER** — An occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including but not limited to, fire, flood, snowstorm, ice or wind storm, tornado, wave action, oil spill, water contamination requiring emergency action to avert danger or damage, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous material incident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military or paramilitary action, or similar occurrences resulting from terrorist activities, riots, or civil disorders.

**DISTRICT COORDINATOR** — The Michigan Department of State Police District Emergency Services Coordinator or his/her authorized representative who serves as the liaison between local emergency management programs and the Michigan State Police, Emergency Management Division and Homeland Security Division in all matters pertaining to the mitigation, preparedness, response and recovery of emergency and disaster situations.

**EMERGENCY** — Any occasion or instance in which the Mayor determines that assistance is needed to supplement local efforts and capabilities to save lives, protect property and the public health and safety, to lessen or avert the

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threat of, or respond to, a disaster in the City.

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**EMERGENCY MANAGEMENT COORDINATOR** — The person appointed pursuant to this chapter to coordinate all matters pertaining to the coordination of all emergency services, disaster or emergency planning, response, and recovery activities within the City of Kalamazoo.

**EMERGENCY MANAGEMENT FORCE** — All agencies of the state, county and municipal government, private and volunteer personnel, public officers and employees, and all other persons or groups of persons having duties or responsibilities as identified in the Emergency Operations Plan or those called into duty or working at the direction of a party identified in the Plan to perform a specific disaster- or emergency-related task during a local state of emergency or disaster under the Emergency Management Act pursuant to this chapter.

**EMERGENCY MANAGEMENT PROGRAM** — A program established to coordinate mitigation, preparedness, response and recovery activities for all emergency or disaster situations, and including civil defense, within the City. Such a program has an appointed Emergency Management Coordinator and meets the program standards and requirements established by the Department of State Police, Emergency Management and Homeland Security Division.

**EMERGENCY OPERATIONS PLAN (or "PLAN")** — Any plan developed and maintained by the City for the purpose of providing necessary support personnel and materials for guiding the local response to an emergency or disaster situation and coordinating disaster response and recovery within the City through the Emergency Management Force.

**GOVERNOR'S STATE OF DISASTER** — An executive order or proclamation by the Governor that implements the disaster response and recovery aspects of the Michigan Emergency Management Plan and applicable local plans of the county or municipal programs affected.

**GOVERNOR'S STATE OF EMERGENCY** — An executive order or proclamation by the Governor that implements the emergency response and recovery aspects of the Michigan Emergency Management Plan and applicable local plans of the county or municipal programs affected.

**LOCAL STATE OF EMERGENCY OR DISASTER** — A declaration by the Mayor pursuant to the Act and this chapter, which implements the appropriate emergency or disaster response and recovery measures of the City and authorizes certain actions as described in this chapter and applicable Emergency Operations Plan.

**VITAL RECORDS** — Those records that contain information needed to continue the effective functioning of the City and for the protection of the rights and interests of persons under emergency conditions in the event of an emergency or disaster situation.

**VOLUNTEER** — Any person duly appointed or assigned by the City to participate in emergency-management-related activities and registered with the Emergency Management Coordinator as a member of the Emergency Management Force. The individual or entity agrees to contribute services, equipment, or facilities for disaster purposes without enumeration or without a formal agreement or contract for hire.

#### **§ 12-4. Disaster and emergency incident management.**

The City of Kalamazoo adopts the National Incident Management Standard (NIMS) for disaster and emergency incident management.



ARTICLE II  
**Emergency Management Services**

**§ 12-5. City Manager; powers and duties.**

- A. The City Manager is fully authorized and directed to create an organization to prepare for community disasters utilizing existing agencies within the City. The City Manager, as the Chief Administrative Officer of the City, shall be responsible for the direction of the Emergency Management Forces of the City working with the Emergency Management Coordinator. In the absence of an appointed Emergency Management Coordinator, the City Manager is recognized as the Coordinator.
- B. The City Manager, working with the Emergency Management Coordinator, shall be responsible for the organization, administration and operation of disaster and emergency services and Emergency Management Forces. The powers and duties of the City Manager shall include the following:
- (1) Relieve any City employees of normal duties and designate employees, equipment, and facilities of all or any portion of City departments, boards, commissions and institutions suitable for or adaptable to emergency service activities, which may be utilized in case of emergency or disaster.
  - (2) Provide for the appointment of other persons who shall be necessary to implement the Emergency Management Program. Those persons appointed shall act at the direction of the Emergency Management Coordinator and may be designated as assistant emergency management coordinators and shall assume, in the time and manner specified in their appointing resolution, the duties of the Emergency Management Coordinator.
  - (3) Enter, with the approval of the City Commission, into mutual aid agreements or compacts with other eligible municipalities or counties, which agreements or compacts shall be limited to the exchange of personnel, equipment, and other resources in times of emergency or disaster. The Mayor is responsible for activating these mutual aid agreements.
  - (4) For a period of up to seven days, send emergency management forces of the City to the aid of other communities stricken by disaster as provided by mutual aid agreements when he/she deems it in the public interest, provided that after the City Commission convenes, the continuance of any such emergency or emergency management and the period thereof shall be subject to the action of City Commission.
  - (5) For a period of up to seven days, appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency or disaster purposes, and undertake any action necessary to provide for the health and safety of persons and property, including emergency assistance to the victims of an emergency or disaster.
  - (6) When obtaining formal approvals would result in delay of emergency and/or relief activity, until the City Commission convenes, waive procedures and formalities otherwise required pertaining to the performance of public works, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase and distribution of supplies, materials and facilities and expenditures of existing funds; provided that the City Commission may also waive any otherwise-applicable procedures and formalities.
  - (7) Following a declaration of a local state of emergency, establish an incident command system; activate the City Emergency Operations Plan and/or other applicable emergency procedures for the City on the advice of emergency management services officials and/or the Emergency Management Coordinator.
  - (8) Notify the public and recommend in-place, evacuation, or other protective measures.
  - (9) Employ temporary workers and volunteers.

- § 12-5 (10) If a state of disaster or emergency is declared by the Governor, assign and make available for duty the employees, property, or equipment of the City within or without the physical limits of the City as requested by the Governor or the Director of the State Police in accordance with the Act. § 12-6
- (11) Authorize other emergency activities as provided for in the Act.
- C. The City Manager shall review for adequacy and effectiveness the Emergency Operations Plan as the Plan relates to the municipality once every two years. With the assistance of the Emergency Management Coordinator, he/she shall make recommendations and any changes to the Plan which may be needed. After this review and incorporation of necessary changes, the City Commission by resolution shall certify the Plan to be current and adequate for the City for the ensuing two years.
- D. The City Manager is authorized to exercise the powers granted to the Mayor in § 12-10 either in the absence or inability of the Mayor, where delay in the exercise of such powers would be contrary to the public interest, provided only that a majority of members of the City Commission are absent or unable to convene in order to declare a local state of emergency.

**§ 12-6. Appointment and general powers and duties of Emergency Management Coordinator.**

- A. The City Manager may appoint an Emergency Management Coordinator, who shall be an individual with the experience and training necessary to plan and coordinate the emergency activities required to respond to a disaster and who serves at the pleasure of the City Manager. In addition to acting for, and at the direction of, the City Manager, the Emergency Management Coordinator will also act for, and at the direction of, the Mayor as permitted by the Act.
- B. The Emergency Management Coordinator shall be responsible, at the direction of the City Manager, for the administration, planning, coordination, and operation of all emergency preparedness activities in the City. He or she shall maintain liaison with the county, state, and federal authorities, the authorities of adjacent and nearby political subdivisions and other interested agencies, both public and private, so as to ensure the most effective emergency operations.
- C. The Emergency Management Coordinator's duties shall include, but not be limited to, the following:
- (1) Development of the City of Kalamazoo Emergency Operations Plan, which is consistent in content with the Michigan Emergency Operations Plan, and any other appropriate disaster plans, for the immediate use of all of the facilities, equipment, manpower, and other resources of the City for the purpose of minimizing or preventing damage to persons or property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and general welfare.
  - (2) Oversee the implementation of all functions necessary during an emergency or disaster in accordance with the Emergency Operations Plan.
  - (3) Coordinate the recruitment and training of volunteer personnel and agencies to augment the personnel and facilities of the City for emergency purposes.
  - (4) Through public information programs, educate the population as to actions necessary and required for the protection of persons and property in case of a disaster.
  - (5) Conduct practice alerts and exercises to ensure the efficient operation of the City's emergency organization, and to familiarize residents of the City with emergency regulations, procedures and operations.
  - (6) Coordinate the activity of the Emergency Management Force and all other public and private agencies engaged in any emergency or emergency management programs.
  - (7) Negotiate with owners or persons in control of buildings or other property for the use of such buildings

- § 12-6 or property for emergency or emergency management purposes, and designating suitable buildings as public shelters. § 12-7
- (8) Establish and maintain administrative control over a local radiological defense program, to include emergency preparations for both peacetime radiation incidents and international wartime disasters; and
  - (9) Coordinate City emergency preparedness activities with the County of Kalamazoo, other municipalities located therein, and adjacent counties, and develop mutual aid arrangements with such other jurisdictions.
- D. The Emergency Management Coordinator may enlist volunteer citizens to form the personnel of an emergency service for which the City has no counterpart, or to temporarily augment personnel of the City engaged in emergency activities, if and when this becomes necessary. The Coordinator shall maintain formal records of all such volunteers and may issue proper insignia and papers to civil defense personnel.
- E. All officers and employees of departments, commissions, boards, institutions and other agencies of City government designated by the City Manager as Emergency Management Forces shall cooperate with the Emergency Management Coordinator in the formulation of the Emergency Operations Plan, and they shall assist the Coordinator in all matters pursuant to the provisions of this chapter.

**§ 12-7. through § 12-9. (Reserved)**



ARTICLE III  
**Continuity in Government**

**§ 12-10. Mayor and City Commission; powers and duties.**

- A. When circumstances within the City indicate that the occurrence or threat of occurrence of widespread or severe damage injury or loss of life or property from a natural or human-made cause is imminent or exists in the City, the Mayor may declare a local state of emergency as permitted by the Act. Such a declaration shall be promptly communicated to the Department of State Police, Emergency Management and Homeland Security Division by the Emergency Management Coordinator unless circumstances attendant upon the disaster prevent or impede its prompt filing. Under a declaration of a local state of emergency, the Mayor may issue directives as to travel restrictions on roads within the City jurisdiction. This power shall not be continued or renewed for a period in excess of seven days except with the consent of the City Commission.
- B. If a disaster or emergency occurs that has not yet been declared to be a state of disaster or a state of emergency by the Governor, the City Commission delegates to the Mayor the authority to determine if the situation is beyond the control of the City after consultation with the City Manager. If the disaster or emergency is considered to be beyond the City's control, the Mayor may request the Governor to declare that a state of disaster or state of emergency exists in the municipality in accordance with the Act and request state assistance. The Emergency Management Coordinator shall immediately contact the District Coordinator. The District Coordinator, in conjunction with the Emergency Management Coordinator, shall assess the nature and scope of the disaster or emergency, and they shall recommend the state personnel, services, and equipment that will be required for its prevention, mitigation, or relief. This provision shall not be construed to restrain the Governor from exercising on his/her own initiative any of the powers set forth in the Act.
- C. If the Mayor invokes the authority and emergency powers as specified by this chapter, as soon as reasonably expedient, he/she shall convene the City Commission for one or more emergency meeting(s) in accordance with the Open Meetings Act to perform its normal legislative and administrative duties as the situation demands. The City Commission shall have the power to terminate the local state of emergency. Nothing in this chapter shall be construed as abridging or curtailing the powers of the City Commission unless specifically provided in this section.
- D. The City Commission may:
- (1) Make, amend, and/or rescind ordinances or rules necessary for emergency management purposes and supplementary to a rule, or order, or directive issued by the Governor or a state agency. Any ordinance or rule change under authority of this subsection shall be temporary and upon the Governor's declaration that a state of disaster or state of emergency is terminated, shall no longer be in effect. Emergency ordinances may be passed with a single reading, without notice, and shall take immediate effect. Any enactment, amendment or rescission of an ordinance or rule under authority of this subsection can only be done during a state of disaster or state of emergency, and shall be done only with the approval of the City Commission, unless it is not possible to convene the City Commission within the time necessary to undertake action to mitigate the disaster.
  - (2) Establish procedures for the succession of government during emergencies or disasters when officials are unavailable for exercising the powers and discharging the duties of their respective offices.
  - (3) Establish a contingency fund pursuant to the Emergency Management Act, Public Act 390, as amended, for the purpose of paying the Emergency Management Force, purchase of supplies and services, repair costs, or other needs required specifically for the mitigation of the effects of, or in response to, the emergency or disaster.

**§ 12-11. City Manager; powers and authority.**

During a period of declared disaster or local emergency, the City Manager, acting through the Emergency Management Coordinator, and with the advice and consent of the City Commission, shall have the authority:

- A. To assemble and utilize the Emergency Management Forces in accordance with the City of Kalamazoo Emergency Operations Plan and prescribe the manner and conditions of the use of such Emergency Management Forces.
- B. To appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for disaster purposes.
- C. To provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster.
- D. To direct and coordinate the development of disaster plans and programs in accordance with the policies and plans established by the appropriate federal and state agencies and this chapter.
- E. To appoint, employ, remove or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, and other disaster workers.
- F. To assign and make available for duty the employees, property or equipment of the City relating to firefighting; engineering; rescue; health, medical and related services; law enforcement; transportation; construction; and similar items or service for emergency management purposes within or without the physical limits of the City, as ordered by the Governor or the Director of the State Police.

**§ 12-12. Suspension of Commission quorum and vote requirements in event of disaster.**

- A. In the event of a disaster or emergency, quorum requirements for the City Commission shall be suspended, and where the affirmative vote of a specified proportion of members, for approval of an ordinance, resolution or other action, would otherwise be required, the same proportion of those voting thereon shall be sufficient.
- B. In the event of foreign attack upon the State of Michigan, the City Commission shall have the authority to waive the procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution with or without compensation of supplies, materials and facilities, and the appropriation and expenditure of public funds.

**§ 12-13. Electronic or telephonic meetings of City Commission.**

The City Commission, pursuant to the authority granted by the Open Meetings Act, establish the following procedures to accommodate the absence of any member of the public body due to a statewide or local state of emergency or state of disaster declared pursuant to law by the Governor or this chapter that would risk the personal health or safety of members of the public or the public body if the meeting were held in person:

- A. Procedures by which the absent member may participate in, and vote on, business before the public body, including, but not limited to, procedures that provide for both of the following:
  - (1) Two-way communication.
  - (2) For each member of the public body attending the meeting remotely, a public announcement at the outset of the meeting by that member, to be included in the meeting minutes, that the member is in fact attending the meeting remotely. If the member is attending the meeting remotely for a purpose other than for military duty, the member's announcement must further identify specifically the member's physical location by stating the county, city, township, or village and state from which he or she is attending the meeting remotely.

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B. Procedures by which the public is provided notice of the absence of the member and information about how to contact that member sufficiently in advance of a meeting of the public body to provide input on any business that will come before the public body.

**§ 12-14. Emergency rules and regulations supersede conflicting ordinances and resolutions.**

When a state of emergency or state of disaster is in effect, the orders, rules and regulations promulgated pursuant to this chapter shall supersede all existing ordinances and resolutions which are inconsistent therewith.





ARTICLE IV  
**Other Provisions**

**§ 12-15. Rights of Emergency Management Force.**

In accordance with the act, personnel of the Emergency Management Force while on duty shall have the following rights:

- A. If they are employees of the municipality, or other governmental agency regardless of where serving, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment.
- B. If they are not employees of the municipality, or other governmental agency be entitled to the same rights and immunities as are provided for by law.

**§ 12-16. Liability.**

- A. As provided for in the Act and this chapter, the City, or the agents or representatives of the City, shall not be liable for personal injury or property damage sustained by the Emergency Management Force. In addition, any member of the Emergency Management Force engaged in emergency management activity shall not be liable in a civil action for damages resulting from an act or omission arising out of and in the course of the person's good faith rendering of that activity, unless the person's act or omission was the result of that person's gross negligence or willful misconduct. The right of a person to receive benefits or compensation to which he or she may otherwise be entitled to under the workers' compensation law, any pension law, or act of Congress will not be affected as a result of said activity.
- B. The City, when engaged in emergency or disaster relief activity, inclusive of training for or responding to an actual, impending, mock, or practice disaster or emergency, is not liable for the death of or injury to a person or persons, or for damage to property, as a result of that activity. The employees, agents, or representatives of the City and nongovernmental Emergency Management Force workers or private or volunteer personnel engaged in emergency or disaster relief activity are immune from tort liability to the extent provided under Section 7 of Public Act 170 of 1964, as amended.
- C. As provided for in the Act, any person owning or controlling real estate or other premises who voluntarily and without compensation grants the City the right to inspect, designate and use the whole or any part of such real estate or premises for the purpose of sheltering persons or for any other disaster-related function during a declared local state of emergency or during an authorized practice disaster exercise, shall not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for loss of, or damage to, the property of such person. Provided, however, a person owning or controlling real estate or other premises who has gratuitously granted the use of the real estate or other premises for the purposes stated in the provision is legally obligated to make known to a licensee of any hidden dangers or safety hazards that are known to the owner or occupant of the real estate or premises that might possibly result in the death or injury or loss of property to a person using the real estate or premises.

**§ 12-17. Interfering with or impersonation of civil defense personnel; disobeying emergency rules.**

- A. It shall be unlawful for any person to obstruct, hinder or delay the emergency management personnel or disobey any lawful command, rule or regulation made pursuant to this chapter.
- B. It shall be unlawful for any person to wear, carry or display any emblem or insignia or other means of identification as a member of the Emergency Management Force, unless authority to do so has been granted to such person by the proper officials.
- C. A violation of this section is a misdemeanor whose penalty is \$500 or 90 days in jail or both.



**Chapter 13**  
**ELECTIONS**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]**

**CHARTER REFERENCE**

**City boundaries — See § 2.**

**Nominations and elections — See §§ 30 through 41.**

**Wards and precincts — See § 3.**



**GENERAL REFERENCE**

**Voting precinct boundaries — See App. D.**





**STATUTORY REFERENCE**

**Michigan Election Law** — See MSA §§ 6.1001 — 6.1992; MCLA §§ 168.1 — 168.992.      **Election of City officers** — See MSA §§ 6.1321 — 6.1327; MCLA §§ 168.321 — 168.327.



**§ 13-1. Nominating petitions. [Adm. Code § A301.2; amended 6-4-2018 by Ord. No. 1967]**

Notwithstanding any City Charter language to the contrary, and so as to conform to general Michigan election law, each nominating petition for the offices of Mayor and City Commissioner, to be valid, shall contain the names of not fewer than 50 nor more than 75 qualified electors. No such petition shall be circulated more than 60 days prior to the last day petitions can be filed, and all such petitions shall be filed with the City Clerk no later than 4:00 p.m. on the 15th Tuesday before the municipal election.



**§ 13-2. City constitutes one ward. [Adm. Code §§ A302, A302.1]**

- A. The number of wards into which the City shall be divided, as provided in § 3(a) of the Charter, is hereby decreased from six wards to one ward, the same to be known and designated as "Ward Number One."
- B. Ward Number One shall include and consist of the entire area within the limits of the City, and the boundaries of such ward shall be co-equal with the limits of the City as they now exist. If at any time hereafter the limits of the City shall be altered to include more territory or less territory, the boundaries of such ward shall thereupon automatically, and without further action by the City Commission, be altered in like manner and to the same extent so that such ward shall at all times include and consist of the entire area within the City limits.



**Chapter 14**

**FILLING STATIONS**





**[HISTORY: Adopted by the City Commission of the City of Kalamazoo by P&L Code § PL1209. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Advertising — See Ch. 3.

Gasoline and fuel sales — See App. A, § 4.2.

Signs — See App. A, Ch. 7.

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#### **§ 14-1. Permission to establish — Required.**

No gasoline filling station shall be established within the City, whether such station is located on the curb or is what is known as a drive-in station, without first obtaining the permission of the City Commission.

#### **§ 14-2. Same — Application; grounds for denial.**

Application for permission to establish a gasoline filling station shall be addressed to the City Commission and filed with the City Clerk, and shall state the location of the proposed filling station and the capacity of the tank or tanks to be used. Such application shall also state, in detail, the plans and specifications of the proposed structure to be used in connection with the filling station, which shall in all respects conform to the building code<sup>71</sup> and all other ordinances of the City. Such plans and specifications and the location of the filling station shall be subject to the approval of the City Commission, and such approval shall be withheld by the Commission, and no permission shall be granted, if, in the opinion of the Commission, it shall appear that the filling station would be dangerous or detrimental to the public welfare and safety, because of traffic congestion or conditions, or otherwise unsafe because of its proximity to any school, church, theater or other place of public assembly, or in any location where, by reason of traffic conditions or fire or explosion hazard, a filling station would imperil the public safety. No such permission shall be granted for a filling station in any location where the same would be restricted or prohibited under the provisions of the Zoning Ordinance,<sup>72</sup> nor shall such permission be granted for filling stations at the curb or located in the public streets or alleys of the City.

#### **§ 14-3. Same — Conditions to granting.**

The City Commission may prescribe reasonable conditions under which any permission shall be granted for the establishment of a gasoline filling station. In case such conditions are imposed by the Commission, the person requesting permission shall, before such permission is granted, sign and execute an agreement, to be filed with the City Clerk, agreeing to abide by and comply with all such conditions.

#### **§ 14-4. Restrictions on advertising signs.**

No advertising signs constructed of wood or any flammable material or of such dimensions as to obstruct the view of traffic, or which shall in any way hinder access to such station, from all directions, by the Department of Public Safety, shall be constructed or allowed to exist on any premises used as a gasoline filling station.

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71. Editor's Note: See § 9-21 et seq.

72. Editor's Note: See App. A.



**Chapter 15**

**FIRE PREVENTION AND PROTECTION**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Department of Public Safety — See § 2-291 et seq.**

**Buildings and building regulations — See Ch. 9.**

**Construction Board of Appeals — See § 9-31 et seq.**

**Open fires in connection with building moving or wrecking operations — See § 9-265.**

**Civil defense — See Ch. 12.**

**Permission not to be granted for location of filling station in such manner as to constitute a fire hazard — See § 14-2.**

**Filling station signs not to interfere with access to premises — See § 14-4.**

**Burning of garbage — See § 17-112.**

**Weeds constituting fire hazard declared to be nuisance — See § 22-3.**

**Damaging public property generally — See § 22-6.**

**Interfering with City officers — See § 22-20.**

**Clear zones at disaster sites — See § 22-51.**

**False fire alarms — See § 22-54.**

**Explosives and flammable materials not to be deposited for collection by City — See § 31-18.**

**Fires on pavement — See § 33-11.**

**Markings and fire extinguishers for vehicles transporting explosives — See § 36-76.**

**Following fire apparatus or driving near scene of fire — See § 36-122.**

**Driving over fire hose — See § 36-123.**

**Vehicles for hire — See Ch. 37.**

**Obstruction or unlawful use of fire hydrants — See §§ 38-15, 38-16.**

**Unlawful use of water supply for fire sprinklers and maintenance and testing of sprinkler systems — See § 38-18.**



**STATUTORY REFERENCES**

**State Fire Prevention Act** — See MSA § 4.559(1) et seq.; MCLA § 29.1 et seq. § 28.609(2); MCLA § 750.377b.

**Authority to adopt Fire Prevention Code by reference** — See MSA § 5.2073(k); MCLA § 117.3(k). **Setting fires in hotels or places of public abode** — See MSA § 28.764(1); MCLA § 750.496.

**False fire alarms** — See MSA § 28.437; MCLA § 750.240. **Fireworks Safety Act** — See MCLA 28.451 et seq.

**Malicious destruction of Fire Department property** — See MSA **Protection of Underground Facilities Act** — See MCLA § 460.701 et seq.





## ARTICLE I

**In General**

**[P&L Code §§ PL221.2; PL403; PL1301.1; PL1301.3; PL1301.4; amended in its entirety 8-19-2019 by Ord. No. 19951**

**§ 15-1. Carrying explosives or flammable liquids on public conveyances.**

No person shall take, transport, convey or carry, either as freight or as hand luggage or baggage, any dynamite, gunpowder, nitroglycerine, fulminate in bulk in dry condition or other explosive substance which explodes by concussion or friction, or any giant powder, gun cotton, kerosene, gasoline, naphtha, benzene, spirits of turpentine or any other explosive, on or in any bus, taxicab or other vehicle used wholly or partially as a public conveyance, within the corporate limits of the City. A person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

**§ 15-2. Setting fire to hotel and places of abode or furnishings therein.**

Any person who shall carelessly, recklessly or negligently, set fire to any hotel, rooming house, lodging house or any place of public abode, or to any bedding, furniture, curtains, drapes or other furnishings therein, so as to endanger life or property in any way, shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both. The proprietor of any such place shall post a written notice of the provisions of this section in a conspicuous place in each sleeping room located in such place.

**§ 15-3. False fire alarms.**

It shall be unlawful for any person to willfully or knowingly raise or circulate any false alarm of fire. A person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

**§ 15-4. Damaging fire apparatus or building used to house same.**

It shall be unlawful for any person to wantonly or willfully damage any fire apparatus belonging to the City or any building or other structure used to house such apparatus. A person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

**§ 15-5. Interference with persons detailed to guard property during fire.**

It shall be unlawful for any person to interfere, in any way, with the personnel of the Department of Public Safety or with any police officer or public safety officer or other party detailed to guard any property during progress of any fire. A person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

**§ 15-6. through § 15-16. (Reserved)**



ARTICLE II  
**Outdoor Furnaces**<sup>73</sup>

[Adopted 8-3-2009 by Ord. No. 1858; amended in its entirety 8-19-2019 by Ord. No. 1995]

**§ 15-17. Purpose.**

- A. Research conducted by the United States Environmental Protection Agency indicates that outdoor furnaces cause emission problems which can affect human health and safety. Smoke generated by outdoor furnaces can cause visibility problems, worsen cardiovascular diseases, irritate eyes and lungs, trigger headaches, and contribute to respiratory diseases such as asthma, emphysema, and bronchitis. In addition, emissions from outdoor furnaces contain harmful air pollutants such as sulfur oxides, nitrogen oxides, carbon monoxide, and other potentially disease-causing compounds such as polycyclic aromatic hydrocarbons, benzene, formaldehyde, and dioxins.
- B. Persons living and working within residential, commercial, and industrial establishments situated within the City are entitled to clean air and environmental circumstances free of unreasonable smoke, odor, and fumes, as well as living within an aesthetically pleasing environment through the proper storage of debris and combustible fuels.
- C. The purpose of this article is to protect the public health, safety, and welfare of the residents of the City of Kalamazoo from excessive smoke, pollution, soot, contamination, and other toxic air pollutants and offensive odors emanating from outdoor furnaces and to regulate the location and use of same.

**§ 15-18. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**CLEAN WOOD** — Wood that has no paint, stains, or other types of coatings, and wood that has not been treated or combined with any petroleum product, chemical, preservative, adhesive, or other substance, including, but not limited to, copper chromium, arsenate, creosote, or pentachlorophenol.

**OUTDOOR FURNACE** — Sometimes referred to as a "hydronic heater," any boiler, stove, furnace, or other appliance designed, intended or used to provide heat and/or hot water to any residence or other structure, which operates by the burning of wood, coal, corn, or other type of solid fuel, and which is not located within a building intended for habitation by humans or domestic animals. Not included in this definition is any device which is fueled by natural gas, propane or fuel oil, if the device has been inspected and approved by the City's mechanical inspector, or any device which is solely designed or used to heat the structure in which the device is located.

**§ 15-19. Restrictions.**

It is unlawful to install or operate an outdoor furnace or cause or permit the installation or operation of an outdoor furnace within the City except as specifically authorized and permitted in this article.

**§ 15-20. Permit required; fee.**

- A. Any outdoor furnace existing within the City on August 1, 2009, shall be inspected, and any outdoor furnace installed on or after August 1, 2009, shall require the issuance of a permit by the Code Administration Division of the Community Planning and Development Department.
- B. The permit application shall include information necessary to assure compliance with this article, including, but not limited to:

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73. Editor's Note: Former Art. II, §§ 15-17 through 15-28, was repealed 9-27-1982 by Ord. No. 1268. Formerly, said provisions were relative to the Fire Department and derived from Adm. Code §§ A211.1, A211.31 through A211.36; and Ord. No. 914, adopted 12-13-1971. The prevention of fires is now a function of the Department of Public Safety, and provisions relative to said Department may be found in § 2-291 et seq.

- § 15-20 (1) A drawing identifying all the information necessary to assure compliance with this article, including property lines and the location and height of neighboring structures. § 15-23
- (2) A copy of the manufacturer's specifications for the outdoor furnace.
- C. The City may charge a fee to cover the reasonable cost of inspection and administration of issuing a permit under this section.

**§ 15-21. Installation standards.**

Every owner or person in control of an outdoor furnace installed on or after August 1, 2009, shall comply with the following requirements and standards:

- A. No outdoor furnace shall be located on a parcel that is part of a condominium subdivision or platted subdivision.
- B. No outdoor furnace shall be located on a parcel of land less than three acres in area.
- C. No more than one outdoor furnace shall be permitted on any parcel of land.
- D. Before undertaking any excavation to install an outdoor furnace, provide notification to public utilities pursuant to MCLA 460.701 et seq., being the Protection of Underground Facilities Act (MISS DIG).
- E. Such devices shall meet all specifications provided by the manufacturer, and, in addition, they must conform to any state construction code provisions that are applicable and to the City's fire prevention code. All outdoor furnaces must be Underwriter Laboratories Inc., listed, certified or otherwise approved by another product safety certification organization.
- F. An outdoor furnace shall have a permanent chimney, equipped with a spark arrestor, which extends at least 15 feet above the ground surface and is at least two feet higher than the height of the highest roof peak of any dwelling in existence when the device is installed and which is owned by a person other than the owner of the outdoor furnace and is located within 500 feet of the outdoor furnace.
- G. An outdoor furnace shall be installed 50 feet or more from a property line and at least 350 feet from the nearest building which is not on the same parcel as the appliance.
- H. No outdoor furnace shall be installed or located in the front yard setback of a parcel.
- I. Any outdoor furnace installed within the City on or after August 1, 2009, shall meet or exceed the United States Environmental Protection Agency's (EPA) smoke emission standards for Phase 2 qualified (white tag models) hydronic heaters.

**§ 15-22. Operation standards.**

- A. Outdoor furnaces shall not be used to burn any fuel other than a fuel listed by the manufacturer as a fuel that the device has been designed to handle. Outdoor furnaces shall not be used to burn recyclable materials, plastics, rubber, paper products, trash, rubbish, garbage or yard waste, or any wood that does not meet the definition of "clean wood."
- B. No outdoor furnace shall be operated from April 15 through October 15, inclusive, in any calendar year.
- C. Ashes or waste resulting from burning fuel in an outdoor furnace shall not be accumulated or stored on the premises.
- D. All fuel materials shall be neatly stacked or stored.
- E. Fires in an outdoor furnace shall not be tended by persons under the age of 15 years old.

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**§ 15-23. Existing outdoor furnaces.**

- A. The owner or person in control of an outdoor furnace which exists in the City as of August 1, 2009, shall operate such device in conformance with the operation standards set forth in this article, and the appliance may remain in place only if the owner or person in control applies for a technical code inspection from the City's Code Administration Division within 30 days of the effective date of this article to assure proper installation and operation of the outdoor furnace. Such inspection by the City shall occur within 15 business days following application.
- B. Prior to the completion or consummation of the sale or transfer of any real property, upon which, as of August 1, 2009, there exists an outdoor furnace that does not meet the EPA Phase 2 Qualified smoke emission standards for hydronic heaters, the furnace shall be either replaced with an outdoor furnace that meets the installation standards of this article or removed.

**§ 15-24. Nuisance.**

Any outdoor furnace installed or operated in violation of this article is declared to be a nuisance per se. Nothing in this article shall be deemed to bar, limit, or otherwise affect the rights of any person to take private legal action regarding damage or nuisance caused by the use of an outdoor furnace.

**§ 15-25. Conflicts.**

This article shall not be construed as an exemption or an exception to any other provision of the City ordinances, including but not specifically limited to the City's Zoning Code or any other code adopted by reference as an ordinance for which the City is the enforcing agency. In the event of a conflict between the provisions of this article and any other ordinance or other provision of law, the more restrictive provision shall apply.

**§ 15-26. Enforcement.**

- A. All outdoor furnaces shall be subject to inspection by the City's building and mechanical inspectors and the Fire Marshal to assure that the provisions of this article have been, and continue to be, satisfied.
- B. The Department of Public Safety and Building inspection officials are authorized and designated to issue notices and citations for violations of this article.

**§ 15-27. Penalty.**

Any person who violates this article shall be responsible for a municipal civil infraction punishable by a fine of \$100 for each violation, plus court costs. In addition, the City shall have the ability to proceed in any court of competent jurisdiction to obtain equitable relief or any other appropriate remedy to compel compliance with this article.



## ARTICLE IIA

**Fireworks**

**[Adopted 9-4-2012 by Ord. No. 1902; amended in its entirety 8-19-2019 by Ord. No. 19895]**

**§ 15-28. Purpose.**

- A. The Michigan Fireworks Safety Act legalized the sale, possession, and use of consumer fireworks in Michigan while granting limited control over the use and discharge of fireworks to local communities. Since the adoption of the Act, the citizens of Kalamazoo have endured the disruption of the peace and quietude of its residential neighborhoods resulting in a negative impact to the quality of life of residents. Additionally, the resources of the City have been impacted due to increased complaints of noise and personal injuries owing to the use of fireworks.
- B. The purpose of this article is to impose conditions on the time, place, and manner of the use and discharge of consumer fireworks so as to promote the interest of the public health, safety and welfare consistent with the limitations imposed on municipalities by the Michigan Fireworks Safety Act.

**§ 15-29. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

ACT — The Michigan Fireworks Safety Act, MCLA § 28.451 et seq.

ARTICLES PYROTECHNIC — Pyrotechnic devices for professional use that are similar to consumer fireworks in chemical compositions and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

CONSUMER FIREWORKS — Fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR Parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

DISPLAY FIREWORKS — Large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA Standard 87-1, 4.1.

HOMEMADE FIREWORKS — Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR Parts 1500 and 1507.

LOW-IMPACT FIREWORKS — Ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1.1 to 3.1.1.1.8, and 3.5.

MINOR — An individual who is less than 18 years of age.

NFPA 1123 — The Code for Fireworks Display, 2010 Edition, developed by the National Fire Protection Association.

**§ 15-30. Fireworks prohibitions. [Amended 7-19-2021 by Ord. No. 2036]**

- A. A person shall not ignite, discharge, or use consumer fireworks or homemade fireworks except on the following days after 11:00 a.m.:
- (1) December 31 until 1:00 a.m. on January 1.
  - (2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.

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- (3) June 19, if that date is a Friday or Saturday, until 11:45 p.m., otherwise the third Saturday in June until 11:45 p.m. § 15-31
- (4) June 29 to July 4 until 11:45 p.m. on each of those days.
- (5) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
- (6) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- B. No person shall ignite, discharge or use consumer fireworks or homemade fireworks on public property, school property, church property or the property of another person without that organization's or the property owner's express permission to use consumer fireworks or homemade fireworks on those premises.
- C. Consumer fireworks shall not be sold to a minor. This age requirement shall be verified by any of the following:
- (1) An operator's or chauffeur's license issued under the Michigan Vehicle Code, 1949 PA 300, MCLA §§ 257.1 to 257.923.
- (2) An official state personal identification card issued under 1972 PA 222, MCLA §§ 28.291 to 28.300.
- (3) An enhanced driver license or enhanced official state personal identification card issued under the Enhanced Driver License and Enhanced Official State Personal Identification Card Act, 2008 PA 23, MCLA §§ 28.301 to 28.308.
- (4) A military identification card.
- (5) A passport.
- (6) Any other bona fide photographic identification that establishes the identity and age of the individual.
- D. An individual shall not discharge, ignite, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. As used in this subsection:
- (1) "Alcoholic liquor" means that term as defined in Section 1d of the Michigan Vehicle Code, 1949 PA 300, MCLA § 257.1d.
- (2) "Controlled substance" means that term as defined in Section 8b of the Michigan Vehicle Code, 1949 PA 300, MCLA § 257.8b.

**§ 15-31. Environmental concerns prohibition on use of fireworks.**

- A. Notwithstanding the days and times permitting the ignition, discharge or use of consumer fireworks under § 15-30A, if the environmental concerns based on the Michigan Department of Natural Resources Fire Division criteria are elevated to extreme fire conditions or if the environmental concerns based on the Fire Division criteria are elevated to very high for 72 consecutive hours, the Chief of Public Safety or the Fire Marshal, acting under the direction of the Chief of Public Safety, in consultation with the Michigan Department of Natural Resources, has the authority to enforce a no-burning restriction that includes a ban on the ignition, discharge, and use of consumer fireworks, homemade fireworks and display fireworks within the City.
- B. If a no-burning restriction is instituted under this section, the Chief of Public Safety or the Fire Marshal acting under the direction of the Chief of Public Safety enforcing the restriction shall ensure that adequate notice of the restriction is provided to the public.
- C. Not more than 24 hours after the fire condition is downgraded from extreme or very high fire condition, the



§ 15-31 Chief of Public Safety or the Fire Marshal acting under the direction of the Chief of Public Safety enforcing the no-burning restriction that banned the ignition, discharge, and use of fireworks shall inform the public that the restriction has been lifted in the same manner that the restriction was announced or otherwise made known to the public. § 15-34

**§ 15-32. Penalties.**

- A. A person who violates § 15-30A is responsible for a municipal civil infraction and shall be ordered to pay a civil fine of \$1,000 for each violation of the subsection and no other fine or sanction; provided, however, that \$500 of the fine collected shall be remitted to the Kalamazoo Department of Public Safety as required by MCLA § 28.457(3).
- B. A person who violates § 15-30B is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.
- C. A person who violates § 15-30C shall be ordered to pay a civil fine of not more than \$100 or, for a second or subsequent violation of that subsection, a civil fine of not more than \$500.
- D. A person who violates § 15-30D is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than \$1,000.
- E. A person who violates § 15-31 is guilty of a misdemeanor.

**§ 15-33. Approval of public and private displays.**

- A. The City Commission reserves to itself the ability granted by the Act at MCLA § 28.456, upon payment of a fee set by the City Commission, to approve the use of articles pyrotechnic and display fireworks for public or private display by organizations and individuals within the City.
- B. The City Commission, upon application in writing on forms provided by the Michigan Department of licensing and regulatory affairs, or its successor agency, and payment of a fee set from time to time by City Commission resolution, may grant a permit for the use of articles pyrotechnic or display fireworks for public or private display within the City by organizations or individuals approved by City authority, and compliance with the Michigan Fireworks Safety Act. A permit granted under this subsection is not transferable and shall not be issued to a minor.
- C. Before a permit for articles pyrotechnic or display fireworks ignition is issued, the person applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character and form deemed necessary as set from time to time by City Commission resolution to protect the public and to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person or an agent or employee of the person.
- D. Before granting a permit, the City Fire Marshal shall rule on the competency and qualifications of an articles pyrotechnic and display fireworks operator, as furnished by the operator on the operator's application form, in accordance with the requirements provided under NFPA 1123, and on the time, place and safety aspects of the display of articles pyrotechnic or display fireworks.

**§ 15-34. through § 15-39. (Reserved)**



ARTICLE III  
Fire Prevention Code

[Adopted 12-13-1971 by Ord. No. 914; amended in its entirety 12-19-2022 by Ord. No. 2058]

**§ 15-40. Adopted.**

Pursuant to the authority granted in the Home Rule Cities Act, MCLA § 117.3(k), there is hereby adopted, for the purpose of regulating and governing the safeguarding of life and property from fire or explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Kalamazoo; and providing for the issuance of permits and collection of fees therefor; that certain code known as the "International Fire Code," being particularly the 2021 edition thereof, including appendix chapters, as if set forth fully herein. Any previously adopted fire codes are repealed. The Chief of Public Safety, with the approval of the City Manager, is authorized to make and enforce such other rules and regulations for the prevention and control of fires and fire hazards as may be necessary from time to time to carry out the intent of this code. A copy of the code shall be filed with the City Clerk and shall be in effect upon filing and shall be available for public inspection and distribution at the office of the City Clerk, 241 W. South Street, Kalamazoo, Michigan. In the event that any portion of the International Fire Code (2021 edition), including appendix chapters, as adopted by reference, is superseded by the Michigan Fireworks Safety Act, MCLA § 28.451 et seq., the provisions of the state law shall control.

**§ 15-41. Amendments and deletions.**

A. Amendments generally. The 2021 International Fire Code adopted by § 15-40 of the Kalamazoo City Code is hereby amended as follows:

(1) Section 105 is hereby amended to add the following at the end of Section 105.1.1: It shall be unlawful for any person, firm, or corporation to use a building or premises or engage in any activities for which a permit is required by this code without first having obtained such permit. Permits are required from the Bureau of Fire Prevention prior to engaging in the following activities, operations, practices or functions.

(2) Section 202 is hereby amended to add or revise the following definitions to read as follows:

**BONFIRE** — A fire which is kindled from wood, trees, branches, kindling, wood chips, boxes, compressed wood or any other wood product. A bonfire is a type of open fire as defined in this section.

**BRUSH** — The trimmings from trees and/or shrubs.

**BUREAU OF FIRE PREVENTION** — The Bureau of Fire Prevention of the Department of Public Safety of the City of Kalamazoo.

**CAMPFIRE** — A fire which is kindled for a civic, social or athletic event made from wood, trees, branches, kindling, wood chips, boxes, compressed wood or any other wood product. A campfire is a type of open fire as defined in this section.

**CHIEF OF POLICE or POLICE DEPARTMENT** — The Chief of Public Safety of the City of Kalamazoo or their authorized representative.

**CHIEF or CHIEF OF THE FIRE DEPARTMENT** — The Chief of Public Safety of the City of Kalamazoo or their authorized representative.

**COMBUSTIBLE WASTE MATTER** — Magazines, books, trimmings from lawns, trees, leaves, flower gardens, pasteboard boxes, rags, papers, plastic, straw, sawdust, packing material, shavings, boxes and all garbage, rubbish and refuse that will ignite through contact with flames or ordinary temperatures.

**GARBAGE** — The animal or vegetable waste and food wrap materials resulting from the handling, preparation, cooking and/or serving of food.

JURISDICTION — The City of Kalamazoo, Michigan.

OPEN BURNING or OPEN FIRE — A fire made from any combustible waste matter or any flammable material of any type or kind, including but not limited to wood, trees, branches, wood chips, compressed wood or other wood products, which is kindled and maintained in whole or in part in the open air.

RECREATIONAL FIRES — The noncommercial burning of materials, other than rubbish, brush and leaves, for pleasure, religious, ceremonial, cooking, or similar purposes in which the fuel burned is contained in a fire pit or commercial outdoor fireplace with an area that does not exceed three feet in diameter.

RUBBISH (TRASH) — Any combustible or noncombustible waste matter, except garbage, including but not limited to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, plastics, tree branches, yard trimmings, tin cans, metals, automobile parts, mineral matter, glass, crockery, dust and the residue from the burning of flammable material and/or combustible waste matter.

(3) Section 307.1 is hereby revised to read as follows:

- (a) No person shall kindle or maintain any open fire or authorize any such open fire to be kindled or maintained on any private property within the City of Kalamazoo, unless expressly permitted by the Fire Marshal.
- (b) During construction or demolition of buildings or structures, no waste materials or rubbish shall be disposed of by burning on the premises or any other place within the City of Kalamazoo.
- (c) Waste matter shall not be burned, under permit or otherwise, which shall, in burning, cause or create a dense smoke or odor.
- (d) The burning of leaves or brush within the City of Kalamazoo is hereby prohibited.
- (e) No person shall kindle or maintain any open fire or authorize such open fire to be kindled or maintained on or in any public street, alley, road, public right-of-way, or other public place.
- (f) No person shall throw down or drop any lighted match, cigar, cigarette or other burning substance in combustible material or in close proximity thereto.
- (g) The burning of garbage or rubbish is prohibited within the City of Kalamazoo, except in an incinerator approved as required by Section 605.8.
- (h) No fire shall be kindled or maintained in a barrel or trash burner or any other form of incinerator which does not meet the requirements of Section 605.8 of this code.

**Exceptions:** The provisions of Section 307.1 shall not apply to:

- 1. The burning of wood, charcoal, coke or other accepted fuel for the preparing of food in any form, in an approved container or utensil manufactured for food preparation, while being used in a safe and sanitary manner.
- 2. The use of approved gaseous or liquid-fired salamanders commonly employed in conjunction with building and construction operations when being used in accordance with accepted safety standards.
- 3. Roofers, tanners, plumbers, or other mechanics pursuing a business requiring the use of fire for the purpose of boiling tar, pitch or oil used in the regular course of their business or trade and while being used in a safe and sanitary manner conforming to all other applicable codes and requirements.

(4) Section 307 is hereby amended to revise Section 307.4.1 to read as follows:

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**Bonfires.** The kindling of bonfires or campfires within the City of Kalamazoo is hereby prohibited.

(5) Section 307 is hereby amended to revise Section 307.4.2 to read as follows:

**Recreational fires.** A permit shall be obtained from the fire code official prior to conducting a recreational fire.

**Exception.** Recreational fires may be conducted without a permit in an approved outdoor device in accordance to manufacturer's instructions at single- and two-family dwellings on a single parcel under the following conditions:

1. The device shall have a screen cover that aids in the protection to contain burning particulate from escaping into the atmosphere.
2. The device shall be 15 feet from any structure or combustibles.
3. A person shall have a garden hose connected to a reliable water source readily available for use.
4. The size of the fire shall be no larger than three feet by three feet by three feet.
5. Firewood being burned shall not have a diameter larger than three inches in diameter.
6. Burning shall not create a foul or offensive odor or cause smoke emissions that are reasonably offensive to occupants of surrounding property.
7. The burning of garbage, leaves, or other waste material is prohibited.
8. Any fire shall be extinguished at the direction of a Public Safety Officer if the fire is determined to constitute a hazardous condition, to create a foul or offensive odor, or to cause smoke emissions that are reasonably offensive to occupants of surrounding property.
9. The fire shall be constantly attended by a competent person until such fire is extinguished.

(6) Section 307 is hereby amended to revise Section 307.4.3 to read as follows:

Portable outdoor fireplaces. A permit shall be obtained from the fire code official prior to using a portable outdoor fireplace.

**Exception.** Portable outdoor fireplaces at single- and two-family dwellings may be conducted without a permit when they are used in accordance with the manufacturer's instructions and not operated within 15 feet of a structure or combustible material.

(7) Section 307 is hereby amended to add Section 307.6 to read as follows:

**307.6 Open Burning for training and emergency purposes.**

(a) Open burning for Department of Public Safety and civil defense purposes may be specifically permitted in writing by the Chief after a determination by the Chief that such open burning will occur under the following circumstances:

- i. The area is adequately protected by public safety officers, or department trainees, or other authorized representatives.
- ii. The fire will be of short duration.
- iii. The atmosphere is relatively free of pollutants.

(b) The Chief may issue permits for such open fires as deemed necessary in times of disaster or emergency.

- (8) Section 308 is hereby amended to revise Section 308.1.4 to read as follows:

**Open-flame cooking devices.** Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within 10 feet of combustible construction, decorations or furnishings.

- (9) Section 308 is hereby amended to add Section 308.1.4.1 to read as follows:

Open-flame cooking devices shall not be operated over a public right-of-way or property of others.

- (10) Section 403 is hereby amended to revise Exception 1 to Section 403.11.3.1 to read as follows:

Outdoor events with a capacity of less than 1,000 are not required to provide crowd managers, unless the outdoor event is held in a confined site.

- (11) Section 505 is hereby amended to revise Section 505.1 to read as follows:

**Address identification.** New and existing commercial or multifamily buildings shall provide address identification as follows:

1. Street number and street name are required.
  - a. Numbers and letters must be in color or material that provides contrast with its background.
  - b. Numbers should not be spelled out, but in numerical text.
2. Format (number, letter, stroke for each).
  - a. Residential. Multiple-unit residential buildings containing up to four units and those residential buildings with an exterior appearance of a single home that are divided into multiple units shall comply with the following:
    - i. Text. Only street number is required.
    - ii. Size. Numbers and letters shall be four to six inches in size.
    - iii. Location. Street numbers shall be located on the street-facing facade with the primary entrance and/or on a mailbox or fence at the front property line.
    - iv. Corner buildings shall locate street numbers on the side of recorded address.
  - b. All other buildings shall comply with the following:
    - i. Text. Both street number and street name are required.
    - ii. Size. Street numbers shall be 12 inches in height, with a minimum stroke width of 1.5 inches. Street name shall be a minimum of six inches in height.
      - The fire code official may require that buildings set back more than 50 feet from the street or that have permanent obstructions limiting visibility (utility poles, bridges, fencing, etc.), utilize street numbers up to 24 inches in height.
      - Building facades facing alleys and courts and those facades facing secondary streets shall utilize letters 12 inches in height.
    - iii. Location. Street numbers and street names shall be located on all street-facing facades in such a way as to minimize the obstruction from trees, light poles, and other signage.

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- Buildings located more than 50 feet from the street may utilize a freestanding sign for its street number and street address requirements when the sign is located directly adjacent to the driveway(s) into the site and is visible to travel in all directions.
- iv. Multiple Addresses. Buildings with multiple addresses or separate suites shall have the street number or suite number located within five feet of the front entrance for each address, regardless of other freestanding or collective address signage.
  - These numbers shall be six inches in height.
  - When these numbers are located on clear glazing, such as doors or windows, the numbers shall be white or black to achieve contrast during all lighting conditions.

(12) Section 605 is hereby amended to revise Section 605.8.4 to read as follows:

All burning shall take place during hours approved by the Chief. Burning shall be confined to incinerators which are permitted as set forth herein.

(13) Section 605 is hereby amended to add Section 605.8.8 to read as follows:

The installation, operation, and/or construction of a commercial, industrial, or residential-type incinerator is hereby prohibited without first obtaining a permit to construct, install, alter or operate such incinerator from the Michigan Department of Natural Resources, Air Quality Division.

(14) Section 605 is hereby amended to add Section 605.8.9 to read as follows:

Any incinerator allowed to be used in connection with any occupancy shall be located not less than 10 feet from any building or property line; provided, further, that the stack of any such incinerator shall be constructed in accordance with the Mechanical Code and shall terminate not less than five feet from combustible roof, overhang, or eave construction.

(15) Section 605 is hereby amended to add Section 605.8.10 to read as follows:

Incinerators installed in a trailer camp, mobile home park or permanent camping park shall comply with the provisions of this code. Such incinerators shall be located not less than 10 feet from any property line and 10 feet from any building, trailer, mobile home or camp site.

(16) Section 605 is hereby amended to add Section 605.8.11 to read as follows:

Incinerators and the equipment thereof shall be maintained in good condition and repair at all times.

(17) Section 605 is hereby amended to add Section 605.8.12 to read as follows:

A minimum clearance of 10 feet shall be maintained between incinerators and all rubbish, dry grass, weeds, vegetation and/or any other combustible material.

(18) Section 605 is hereby amended to add Section 605.8.13 to read as follows:

Chimneys used in conjunction with fireplaces or heating appliances in which solid or liquid fuel is used, upon any cabin, house, hotel, building or structure located within 200 feet of any brush or forest-covered land or land covered with flammable materials, shall be maintained with a spark arrestor as required for incinerators.

(19) Section 605 is hereby amended to add Section 605.8.14 to read as follows:

A person shall not construct, erect, install, maintain or use any incinerator as to constitute or occasion a

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fire hazard by the use or burning thereof or as to endanger the life or property of any person thereby.

- (20) Section 605 is hereby amended to add Section 605.8.15 to read as follows:

No person shall deposit hot ashes or cinders or smoldering coals, or greasy or oily substances liable to spontaneous ignition into any combustible receptacle or place the same within 10 feet of any combustible materials, except in approved metal or other noncombustible, covered receptacles. Such receptacles, unless resting on a noncombustible floor or on the ground outside the buildings, shall be placed on noncombustible stands and in every case shall be kept at least two feet away from any combustible wall or partition or exterior window opening.

- (21) Section 901 is hereby amended to revise Section 901.6.3 to read as follows:

Records of all system inspections, tests and maintenance required by the referenced standards shall be maintained on the premises for a minimum of three years and shall be copied to the fire code official using a system as specified by the fire code official.

- (22) Section 906 is hereby amended to add Sections 906.1.1 and 906.1.2 to read as follows:

**906.1.1** Portable fire extinguishers shall be installed in occupancies and locations as set forth in this code and as required by the Chief. All occupancies shall have a minimum of one portable fire extinguisher on each story and in the basement. Such extinguisher shall have a 2A10BC rating, or extinguishers with an equivalent rating shall be provided unless modified by the Chief or his authorized representative.

**906.1.2** Portable fire extinguishers are required in all dwelling units, condominiums, guest rooms in rooming houses, hotels, motels, fraternity houses, sorority houses, group homes, and any other type of residential occupancy, and shall be installed within individual dwelling units. They shall be at least 1A10BC type and installed where they are easily accessible and visible, permanently mounted on a wall. Furthermore, all fire protection equipment shall be maintained in an operable condition.

- (23) Section 907 is hereby amended to revise Section 907.6.6 to read as follows:

**Monitoring.** Fire alarm systems required by this chapter or by the International Building Code shall be monitored by a listed central station as defined in NFPA 72. A certificate or placard shall be issued by a recognized listing organization that has listed the prime contractor for all newly installed fire alarm systems in commercial occupancies in accordance with NFPA 72. This regulation shall apply to all fire alarm systems that are newly installed in commercial occupancies for which permits are required by the City of Kalamazoo Community Planning and Development Department on or after August 29, 2019. Any existing fire alarm system in a commercial occupancy wherein the fire alarm control panel and/or alarm system components are to be replaced shall be considered newly installed for the purpose of this section. Also, where there is a reasonable cause due to noncompliance or faulty conditions, the fire code official may require an existing fire alarm system to meet the same requirements as a newly installed system. Central station service in full compliance with the 2016 edition of NFPA 72 shall be maintained at the protected property, so long as the requirement for the fire alarm system exists.

- (24) Section 5704 is hereby amended to add Section 5704.1.1 to read as follows:

**5704.1.1** Storage of Class I and Class II liquids in aboveground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited.

**Exception:** Storage of Class I and Class II liquids in aboveground tanks, outside of buildings, within these limits may be permitted if the tanks are enclosed in reinforced concrete vaults approved by the Chief.

- (25) Section 5704 is hereby amended to add Section 5704.1.2 to read as follows:



§ 15-41

§ 15-44

**5704.1.2** Rules and regulations. The rules of the Department of State Police, State Fire Safety Board, entitled "Michigan Underground Storage Tank Rules," being R 29.201 through 29.2169 of the Michigan Administrative Code, and "Storage and Handling of Flammable and Combustible Liquids" being R 29.4101 through R 29.4504 of the Michigan Administrative Code as presently existing and as may be hereinafter amended, are hereby adopted by reference thereto.

(26) Section C103 is hereby amended to revise Section C103.1 to read as follows:

**Hydrant spacing.** Fire apparatus access roads and public streets providing required access to buildings in accordance with Section 503 shall be provided with one or more fire hydrants. Fire hydrant spacing of 300 feet shall be the normal operating standard of hydrants. Where streets are provided with median dividers that cannot be crossed by fire fighters pulling hose lines, or where arterial streets are provided with four or more traffic lanes and have a traffic count of more than 30,000 vehicles per day, hydrant spacing shall average 300 feet on each side of the street and be arranged on an alternating basis. The fire code official is authorized to require additional hydrant placement based on operational necessity; this may be but is not limited to streets that are a primary, trunk, one-way and railroad track placement.

**§ 15-42. Enforcement and reports relative thereto.**

- A. The International Fire Code adopted by this article shall be enforced by the Bureau of Fire Prevention of the Department of Public Safety. The Chief of the Department of Public Safety, subject to the approval of the City Manager, shall detail such members of the Department of Public Safety as inspectors, as shall from time to time be necessary to enforce such code.
- B. A report of the Bureau of Fire Prevention shall be included in the annual report of the Department of Public Safety, and it shall include all proceedings under the code adopted by this article with such statistics and other data as the Chief of the Department of Public Safety may require.

**§ 15-43. Establishment of limits referred to in Uniform Fire Code.**

- A. The limits referred to in Section 5704 of the International Fire Code adopted by this article, in which storage of flammable liquids in outside aboveground tanks is prohibited, are hereby established to be the following area in the City: beginning at a point on the center line of Stockbridge Avenue and Mills Street; thence north on the center line of Mills Street to the center line of East Vine Street; thence east on the center line of East Vine Street to the City limits line; thence north on the City limits line to a point 150 feet north of the intersection of East Michigan Avenue, Schippers Lane and Wallace Avenue; thence northwest to a point 150 feet east of the intersection of East Michigan Avenue and East Main Street; thence north to the center line of Charlotte and Sherwood Avenue; thence west along the center line of Sherwood Avenue to a point 150 feet east of Riverview Drive; thence north to the center line of Gull Road; thence west along the center line of Gull Road to the center line of Riverview Drive; thence north along the center line of Riverview Drive to the City limits line; thence along the City limits line to a point 150 feet west of Burdick Street; thence due south to a point 150 feet south of the center line of Frank Street; thence west to the center of Simpson Street; thence south to the center line of North Street; thence west to the center line of Elm Street; thence south to the M.C.R.R. tracks; thence southwest along the M.C.R.R. tracks to the center line of Academy Street; thence east along the center line of Academy Street to a point 150 feet west of the center line of Westnedge Street; thence south along a line 150 feet west and parallel with Westnedge to the center line of West Vine Street; thence along the center line of West Vine Street to a point 150 feet west of South Burdick Street; thence south to the center line of Stockbridge Avenue; thence east to the point of beginning.
- B. The limits in which new bulk plants for flammable liquids are prohibited are hereby established to be the area set forth in Subsection A above.
- C. The limits in which bulk storage of liquefied petroleum gas is restricted are hereby established to be the area set forth in Subsection A above.

**§ 15-44. Modifications.**

The Chief of the Department of Public Safety shall have authority to modify any of the provisions of the International Fire Code adopted by this article, upon application, in writing, by the owner or lessee, or their duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of such code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the Chief of the Department of Public Safety thereon, shall be entered upon the records of the department, and a signed copy shall be furnished the applicant.

**§ 15-45. Permits for new materials, processes or occupancies not covered by code.**

- A. The Chief of the Department of Public Safety shall determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the code adopted by this article. The person affected may appeal such decision to the Building Board of Appeals as provided in § 15-46. At all times the decision of the Board of Appeals shall be in such a way as to protect the health, safety, and welfare of the people of the City, the occupants of the premises, or persons and property nearby.
- B. The Fire Prevention Bureau of the Department of Public Safety shall disseminate information on all new materials, processes, or occupancies referred to above to department personnel and other involved persons by an approved and current method.

**§ 15-46. Appeals from decisions made under code.**

Whenever the Chief of the Department of Public Safety shall disapprove an application or refuse to grant a permit applied for under the code adopted by this article, or whenever it is claimed that the provisions of such code do not apply or that the true intent and meaning of such code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Department of Public Safety to the Building Board of Appeals, pursuant to the rules, regulations, and procedures thereof. Such appeal shall be made within 30 days from the date of the decision by the Chief of the Department of Public Safety.

**§ 15-47. Violations and penalties.**

- A. Any person who shall violate any of the provisions of the International Fire Code adopted by this article or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Chief of the Department of Public Safety, Board of Appeals, or a court of competent jurisdiction, within the time fixed therein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the above penalty shall not be held to prevent injunction or the enforced removal of prohibited conditions.
- C. In lieu of arrest, this article may be enforced by the issuance of an appearance ticket.

**Chapter 15A**  
**GARBAGE AND TRASH**



§ 15-47

§ 15-47

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Adoption of county refuse and garbage ordinance — See § 1-6B(7).**

**Abatement of nuisances — See § 22-5.**

**Trash removal service — See § 17-112.**

**Solid waste — See Ch. 31.**



ARTICLE I  
**In General**  
**[Adopted 10-25-1982 by Ord. No. 1271]**

**§ 15A-1. Definitions. [Amended 5-6-1996 by Ord. No. 1618; 3-5-2007 by Ord. No. 1821]**

The following definition shall be used for the purposes of this chapter:

**CURBSIDE COLLECTION SERVICE** — The method of garbage or rubbish collection service whereby the collection company requires the container to be placed at or near the street right-of-way for pickup.

**DWELLING** — Any building which is wholly or partly used or intended to be used for living by human occupants.

**GARBAGE** — Food wastes and such other wastes which results from the handling, preparing, cooking, serving or consumption of food (such as packaging, wrappers, napkins, etc.).

**INSTITUTIONAL DWELLINGS** — Those dwellings, other than an individual's own home, used for the housing of, feeding of, and caring for the occupants, examples of such dwellings being hospitals and licensed nursing homes.

**RUBBISH** — Any combustible or noncombustible waste materials, except garbage, including but not limited to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, plastics, tree branches, yard trimmings, tin cans, metals, automobile parts, mineral matter, glass, crockery, dust and the residue from the burning of combustible materials.

**§ 15A-2. Storage and location of garbage and rubbish containers. [Amended 5-6-1996 by Ord. No. 1618]**

- A. No person, firm or corporation shall place, or allow to remain, on any lot any garbage or rubbish container closer to the street right-of-way than the closest (to the street right-of-way) vertical roof-supporting member of the main structure on said lot; provided, however, any person who has curbside collection service may place his/her garbage or rubbish container at curbside (or streetside if there is no curb) for collection purposes only, but not earlier than 8:00 p.m. of the day preceding his/her collection day, and said container must be removed from the curbside (or streetside if there is no curb) not later than 11:00 p.m. of his/her collection day.
- B. All garbage must be stored in a watertight container that is constructed of metal, plastic or other durable material impervious to rodents, has a tight-fitting lid or cover, and is capable of being serviced without creating unsanitary conditions. The lid or cover must be kept closed to provide a tight seal on the container. Provided, however, those persons who have curbside collection service may place their garbage or rubbish at the curbside (or street if there is no curb) in accordance with Subsection A in sealed bags, but only if said bags are provided by the collection company, meet the approval of the Kalamazoo County Health Department, and are a bright color, e.g., red, yellow, orange. Provided, further, however, if said bags are stored outside prior to collection day, they shall be placed in said watertight containers with a tight-fitting cover or lid.
- C. Notwithstanding the provisions of Subsection A above, a metal container one cubic yard or larger in capacity (commonly called a "bin" or "dumpster") which is picked up by mechanical means may be otherwise located on the lot, but only after a permit has been obtained from the City and a fee as set by the City has been paid. Said permit shall be issued only if the physical layout of the lot and structure would prevent access for mechanical pickup if placed as required by Subsection A above.
- D. The owner of the premises upon which, or in front of which, a violation of this section occurs, the tenant, occupant or person in charge of the premises upon, or in front of, which a violation occurs, or the person, firm or corporation placing or using a container or bag in violation of this section shall be responsible for such violation.

§ 15A-3  
**§ 15A-3. (Reserved)**<sup>74</sup>

§ 15A-14

**§ 15A-4. Exemption of City monthly solid waste pickup program.**

The placement and collection of solid waste for the City monthly solid waste pickup program shall be exempt from the provisions of this chapter and shall continue to be governed by the requirements of Chapter 31, Article II, of the Kalamazoo Code.

**§ 15A-5. Appearance ticket procedure. [Amended 3-5-2007 by Ord. No. 1821]**

Prosecutions for violations of § 15A-2 may be commenced by issuing an appearance ticket. The City Manager may designate a City employee or employees as appearance ticket officer or officers and the employee or employees so designated are authorized to issue and serve the appearance ticket authorized by this section.

**§ 15A-6. Penalties.**

- A. First offense. Any person, firm or corporation found guilty of violating any provision of this article shall be fined \$25 for the first offense.
- B. Second offense. Any person, firm or corporation found guilty of violating any provision of this article for the second time within any one-year period shall be fined \$50.
- C. Third and subsequent offenses. Any person, firm or corporation found guilty of violating any provision of this article for the third time, or any subsequent time thereafter, within any one-year period shall be fined not less than \$100 nor more than \$500 or imprisoned for not more than 90 days, or both fined and imprisoned, in the discretion of the court.

**§ 15A-7. Improper location of garbage and rubbish containers for pickup; remedies therefor. [Added 5-6-1996 by Ord. No. 1618]**

If the placement of a garbage or rubbish container is in violation of § 15A-2A, the City Manager or his or her authorized representative may take all reasonable and necessary actions to correct the violation. Such actions (which may be in addition to the issuance of an appearance ticket) may include the entry upon private lands at reasonable times and under reasonable circumstances to relocate or empty said container. After said corrective action has been taken, the City may bill the expense (which may include both out-of-pocket and administrative expenses) thereof to the owner or person in control of the property from whence the garbage or rubbish container belongs. Failure to pay said bill shall result in the same consequences as failure to pay a bill arising from a nuisance abatement (Kalamazoo City Code § 22-5).

**§ 15A-8. (Reserved)**

**§ 15A-9. (Reserved)**

**§ 15A-10. (Reserved)**

**§ 15A-11. (Reserved)**

**§ 15A-12. (Reserved)**

**§ 15A-13. (Reserved)**

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74. Editor's Note: Former § 15A-3, Collection of garbage or rubbish, as amended, was moved to become § 15A-20.1 by Ord. No. 1821, adopted 3-5-2007.



§ 15A-14  
**§ 15A-14. (Reserved)**

§ 15A-15

**§ 15A-15. (Reserved)**



ARTICLE II  
**Refuse Bins**<sup>75</sup>  
**[Adopted 6-27-1977 by Ord. No. 1115]**

**§ 15A-16. Definitions; purposes.**

The following words, when used in this article, shall for the purposes herein mean:

PERSON — A natural person, firm, partnership, association, or corporation and their legal successors.

REFUSE BINS — Those refuse receptacles designed to be transported by or mechanically emptied into a refuse collection vehicle, and does not include receptacles used in office buildings, businesses and single-family dwellings, which are less than twenty-gallon capacity.

SUBSTANDARD REFUSE BINS — Those refuse bins which do not meet the stability requirements established herein.

**§ 15A-17. Owners, lessees, user of substandard bins encouraged to modify or remove said bins.**

All persons owning, leasing or using substandard refuse bins or permitting the placing of such substandard refuse bins on private property within their custody or control are hereby encouraged to assure the early modification or retrofitting of such substandard refuse bins or, in the alternative, removal of such bins from areas of public access.

**§ 15A-18. Stability requirements; protection against unauthorized access.**

A. From and after the dates established in § 15A-19, each refuse bin shall:

- (1) Be reasonable secured in some manner, such as secured to a stake, fence, wall or other stationary object in a manner to prevent its tipping over; or
- (2) Be enclosed within a fence or barrier at least four feet high with an access gate which is kept locked or otherwise reasonably protected from unauthorized access; or
- (3) Be designed, constructed or modified so that it will not tip when subjected to 191 pounds hanging vertically from the leading edge thereof or to a pull force of 70 pounds exerted horizontally from any edge thereof.

**§ 15A-19. Effective date; exceptions.**

Except on the basis of an extension previously recommended and approved in accordance with the provisions of § 15A-19, no person shall rent, lease, place upon the property of another, or permit to remain upon property within his custody or control, any refuse bin which is not secured or protected from unauthorized access or which does not meet the stability requirements established in the preceding section hereof in the immediate vicinity of a school or school yard on or after September 2, 1977; or elsewhere in the City of Kalamazoo to which the public has access on or after December 31, 1977.

**§ 15A-20. Extensions beyond effective date.**

The fact finding board for recycling dealers, appointed by the City Manager, may accept, consider and make recommendations to the City Manager upon an application from a responsible person for an extension of the period in which to comply with the provisions of the preceding section regarding the security of refuse bins. The said board, upon a showing by the applicant of diligent effort and good cause for inability to comply with such security requirement, may recommend and the City Manager may approve an extension not in excess of three months.

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75. Editor's Note: Ord. No. 1115, adopted 6-27-1977, amended this Code, but did not specify the manner thereof; hence inclusion herein as Ch. 15A, Art. II, §§ 15A-16 through 15A-21, is at the discretion of the editor.

§ 15A-20.1

§ 15A-21

**§ 15A-20.1. Collection of garbage or rubbish.<sup>76</sup> [Amended 5-6-1996 by Ord. No. 1618; 3-5-2007 by Ord. No. 1821]**

- A. Any garbage or rubbish collection company operating in the City shall engage in curbside collection service in the following geographical areas only on the designated days: **[Amended 9-29-2008 by Ord. No. 1848]**

Area 1-Monday: That area of the City located west of the center line of Westnedge Avenue, and north of the center line of Howard Street to the center line of Stadium Drive and then north of the center line of Stadium Drive.

Area 2-Tuesday: That area of the City located east of the center line of Westnedge Avenue and north of the center line of Vine Street.

Area 3-Wednesday: That area of the City located east of the center line of Portage Street to the center line of Reed Avenue, and north of the center line of Reed Avenue and the extension of the center line of Reed Avenue to the center line of Westnedge Avenue, and then east of the center line of Westnedge Avenue and south of the center line of Vine Street.

Area 4-Thursday: That area of the City located east of the center line of Oakland Drive and south of the center line of Howard Street to the center line of Westnedge Avenue and south of the center line of Reed Avenue and its extension from the center line of Westnedge Avenue to the intersection of Reed Avenue and Portage Street and then west of the center line of Portage Street.

Area 5-Friday: That area of the City located west of the center line of Oakland Drive, and south of the center line of Howard Street to the center line of Stadium Drive and then south of the center line of Stadium Drive.

Provided, however, said companies may engage in curbside collection service on a one-day-late schedule (which would permit Saturday pick-up) when the following holidays fall during the period of Monday through Friday: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The curbside collection service schedule as set forth in this subsection shall become effective January 1, 2009.

- B. No garbage or rubbish collection company operating in the City of Kalamazoo shall collect garbage or rubbish within 300 feet of a dwelling between the hours of 11:00 p.m. and 6:00 a.m. of the following day.
- C. Back door collection service is permitted on any day in any area of the City.
- D. Any rubbish or garbage collection company engaging in curbside collection service in the City shall remove all garbage, rubbish or debris which has spilled from a container or during collection activities.
- E. Any rubbish or garbage collection company engaging in curbside collection service in the City, and providing containers (including bags) for their customers, shall identify said containers by placing the name and telephone number of said company in legible letters and numbers thereon.
- F. Any rubbish or garbage collection company engaging in curbside collection service in the City and which, as part of said service, will pick up bags, must supply its customers with bags which are approved by the Kalamazoo County Health Department and are a bright color, e.g., red yellow, orange.

**§ 15A-21. Penalty for violation.**

Violation of any of the provisions of this article shall be a misdemeanor punishable by a fine of not more than \$500, or by imprisonment of not more than 90 days, or by both such fine and imprisonment.

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76. Editor's Note: As adopted by Ord. No. 1271, enacted 10-25-1982, § 15A-3 contained a map depicting the geographical areas of collection as described in Subsection A. Said map has not been set out herein, but is available for public inspection in the office of the City Clerk.

**Chapter 16**

**HISTORIC DISTRICTS**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Kalamazoo Historic Preservation Commission — See § 2-79 et seq.**

**Zoning Ordinance — See App. A.**

**Buildings and building regulations — See Ch. 9.**

**Zoning Board of Appeals — App. A, Ch. XI.**

**Housing Code — See Ch. 17.**





**STATUTORY REFERENCES**

**Historic districts and authority of City with reference thereto — See MSA § 5.3407(1) et seq.; MCLA § 399.201 et seq.**

**Freedom of Information Act — See MCLA §§ 15.261 — 15.275.**

**Open Meetings Act — See MCLA § 15.231 et seq.**



ARTICLE I  
In General

**§ 16-1. Definitions. [Added 1-18-2005 by Ord. No. 1780; amended 4-30-2007 by Ord. No. 1824]**

Unless indicated to the contrary, the word “Commission” as used in this chapter shall mean the Kalamazoo Historic District Commission created by § 16-16 pursuant to the Local Historic Districts Act, 1970 P.A. 169, MCLA § 399.201 et seq., as amended.

**ALTERATION** — Work that changes the details of a resource but does not change its basic size or shape.

**CERTIFICATE OF APPROPRIATENESS** — The written approval of a permit application for work that is appropriate and that does not adversely affect a resource.

**COMMISSION** — The Kalamazoo Historic District Commission created by § 16-16.

**DEMOLITION** — The razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.

**DEMOLITION BY NEGLECT** — Neglect in maintaining, repairing or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

**DENIAL** — The written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

**GUIDELINES** — Classes of work specifically defined in the Kalamazoo Historic District Commission Standards and Guidelines for Rehabilitation as work which must be reviewed and approved by the Kalamazoo Historic District Commission at its regular monthly meeting.

**HISTORIC DISTRICT** — An area, or group of areas not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archeology, engineering or culture.

**HISTORIC DESIGN STANDARDS** — The classes of minor work specifically defined in the Kalamazoo Historic District Commission Standards and Guidelines for Rehabilitation as work which may be administratively approved by the Historic Preservation Coordinator.

**HISTORIC PRESERVATION** — The identification, evaluation, establishment and protection of resources significant in history, architecture, archeology, engineering or culture.

**HISTORIC PRESERVATION COORDINATOR** — The City employee working as the liaison to the Historic District Commission.

**HISTORIC RESOURCE** — A publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archeology, engineering or culture of the City of Kalamazoo, the State of Michigan or of the United States.

**NOTICE TO PROCEED** — The written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under § 16-23.

**OPEN SPACE** — Undeveloped land, a naturally landscaped area or man-made landscaped area that provides a connective link or a buffer between other resources.

**ORDINARY MAINTENANCE** — Keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time. Ordinary maintenance does not change the exterior appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for purposes of this chapter.

**REPAIR** — To restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the exterior appearance of a resource constitutes work for purposes of this chapter.

**RESOURCE** — One or more publicly or privately owned historic or nonhistoric buildings, structures, sites, objects, features or open spaces located within the historic district.

§ 16-1  
 WORK — Construction, addition, alteration, repair, moving, excavation or demolition.

§ 16-4

**§ 16-2. Purpose of chapter. [Adm. Code § A229.1]**

- A. The purpose of this chapter is to create an agency through which the City will be able to:
- (1) Safeguard the heritage of the City by preserving districts within the City which reflect elements of its cultural, social, economic, political or architectural history;
  - (2) Stabilize and improve property values in any such district;
  - (3) Foster civic beauty;
  - (4) Strengthen the local economy; and
  - (5) Promote the use of historic districts for the education, pleasure and welfare of the citizens of Kalamazoo and of the State of Michigan.

**§ 16-3. Chapter does not prevent ordinary maintenance and repair of structures. [Adm. Code § A229.6]**

Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of any structure within an historic district.

**§ 16-4. Establishment of historic districts. [Added 4-30-2007 by Ord. No. 1824]**

- A. The City of Kalamazoo may, by ordinance, establish one or more historic districts. The historic districts shall be administered by the Kalamazoo Historic District Commission.
- B. The duties of the historic district study committee set forth in Section 3 of 1970 P.A. No. 169, MCLA § 399.203 as amended, shall be carried out by the Kalamazoo Historic Preservation Commission, as established in Chapter 2 of the Code of Ordinances for the City of Kalamazoo,<sup>77</sup> which shall constitute the standing committee and shall do all of the following:
- (1) Conduct a photographic inventory of resources within each proposed historic district following procedures established or approved by the Michigan Department of History, Arts, and Libraries.
  - (2) Conduct basic research of each proposed historic district and the historic resources located within that district.
  - (3) Determine the total number of historic and nonhistoric resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the Kalamazoo Historic Preservation Commission shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR Part 60, and criteria established or approved by the Michigan Department of History, Arts, and Libraries, if any.
  - (4) Prepare a preliminary historic district study report that addresses at a minimum all of the following:
    - (a) The historic district or districts studied.
    - (b) The boundaries for each proposed historic district in writing and on maps.
    - (c) The history of each proposed historic district.
    - (d) The significance of each district as a whole, as well as a sufficient number of its individual

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77. Editor's Note: See Ch. 2, Administration, Art. V.

§ 16-4

§ 16-5

resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

- (5) Transmit copies of the preliminary report for review and recommendations to the City of Kalamazoo Planning Commission, to the Michigan Department of History, Arts, and Libraries, to the Michigan Historical Commission, and to the Michigan Historic Preservation Review Board.
  - (6) Make copies of the preliminary report available to the public pursuant to Subsection B(5).
- C. Not less than 60 calendar days after the transmittal of the preliminary report, the Kalamazoo Historic Preservation Commission shall hold a public hearing in compliance with the Open Meetings Act, 1976 P.A. 267, MCLA § 15.261 to 15.275. Public notice of the time, date, and place of the hearing shall be given in the manner required by the Open Meetings Act, 1976 P.A. 267, MCLA § 15.261 to 15.275. Written notice shall be mailed by first-class mail not less than 14 calendar days before the hearing to the owners of properties within the proposed historic district, as listed on the tax rolls of the City of Kalamazoo.
- D. After the date of the public hearing, the Kalamazoo Historic Preservation Commission and the City Commission shall have not more than one year, unless otherwise authorized by the City Commission, to take the following actions:
- (1) The Kalamazoo Historic Preservation Commission shall prepare and submit a final report with its recommendations and the recommendations, if any, of the City of Kalamazoo Planning Commission to the City Commission. If the recommendation is to establish an historic district or districts, the final report shall include a draft of a proposed ordinance or ordinances.
  - (2) After receiving a final report that recommends the establishment of an historic district or districts, the City Commission, at its discretion, may introduce and pass or reject an ordinance or ordinances. If the City of Kalamazoo passes an ordinance or ordinances establishing one or more historic districts, the City of Kalamazoo shall file a copy of that ordinance or those ordinances, including a legal description of the property or properties located within the historic district or districts, with the Kalamazoo County Register of Deeds. The City of Kalamazoo shall not pass an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition.
- E. A writing prepared, owned, used, in the possession of, or retained by the Kalamazoo Historic Preservation Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, 1976 P.A. 442, MCLA §§ 15.231 to 15.246, as amended.

**§ 16-5. Procedures for establishing, modifying, or eliminating historic districts. [Added 4-30-2007 by Ord. No. 1824]**

- A. The City of Kalamazoo may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating an historic district, the Kalamazoo Historic Preservation Commission shall, except as provided in Subsection B, comply with the procedures set forth in § 16-4 and shall consider any previously written reports by the Kalamazoo Historic Preservation Commission or any previously appointed Historic District Study Committee pertinent to the proposed action.
- B. If considering elimination of an historic district, the Kalamazoo Historic Preservation Commission shall follow the procedures set forth in § 16-4 for issuing a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:
  - (1) The historic district has lost those physical characteristics that enabled establishment of the district.

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- (2) The historic district was not significant in the way previously defined.
- (3) The historic district was established pursuant to defective procedures.
- C. Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the City Commission may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the Kalamazoo Historic District Commission as prescribed in this chapter. The Kalamazoo Historic District Commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the City Commission approves or rejects the establishment of the historic district by ordinance, whichever occurs first.
- D. If the City Commission determines that pending work will cause irreparable harm to resources located within an established historic district or a proposed historic district, the City Commission may by resolution declare an emergency moratorium of all such work for a period not to exceed six months. The City Commission may extend the emergency moratorium for an additional period not to exceed six months upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

**§ 16-6. South Street/Vine Area Historic District. [Adm. Code § A229.8; amended 7-6-1976 by Ord. No. 1092; 9-10-1990 by Ord. No. 1502; 3-23-1992 by Ord. No. 1528; 4-21-1997 by Ord. No. 1633; 1-18-2005 by Ord. No. 1780; 4-30-2007 by Ord. No. 1824]**

The South Street Area Historic District, which was created pursuant to Act No. 169 of the Public Acts of 1970, MCLA § 399.201 et seq., as amended, is now titled the "South Street - Vine Area Historic District," and is hereby amended to include all of the properties included in the following boundary description:

- A. Beginning at a point on the south right-of-way line of South Street 126.17 feet west of the west right-of-way line of Westnedge Avenue; thence south and parallel with Westnedge Avenue 148.5 feet; thence west and parallel with South Street 281.07 feet; thence south and parallel with Westnedge Avenue 115.5 feet to the north right-of-way of West Lovell Street; thence southeasterly to the west corner of the junction of Pearl Street and West Lovell Street.
- (1) Thence south along the center line of Rose Street, 364.50 feet; thence east 231.00 feet; thence south 99.00 feet; to the center line of Dutton Street; thence east along said center line, 233.64 feet to the center line of Burdick Street; thence south along said center line, 396.00 feet to the center line of Vine Street; thence west along said center line, 116.82 feet; thence south 165.00 feet; thence west 83.82 feet; thence south 66.00 feet; thence west 66.00 feet; thence north 132.00 feet; thence west 102.00 feet; thence north 33.00 feet; thence west 129.00 feet to the west line of Rose Street.
- (2) Thence south along said west line, 33.00 feet; thence west 165.00 feet; thence south 66.00 feet, thence west 73.92 feet; thence north 58.00 feet; thence west 73.92 feet; thence south 162.00 feet; thence west 165.00 feet; thence south 66.00 feet; thence east 43.50 feet; thence south 66.00 feet; thence west 43.50 feet; thence south 264.00 feet; thence west 6.00 feet; thence south 66.00 feet to the north line of Burr Oak Street; thence west along said line, 102.50 feet; thence south 116.00 feet; thence east 29.58 feet; thence south 96.52 feet to the east and west quarter line of Section 22-2-11 being 59.16 feet east of the east line of Park Street.
- (3) Thence east 72.84 feet; thence south 66.00 feet; thence west 70.00 feet; thence south 99.00 feet; thence east 22.50 feet; thence south 66.00 feet; thence east 9.00 feet; thence south 66.00 feet; thence east 24.00 feet; thence south 455.00 feet; thence west 148.50 feet to the center line of Park Street; thence north along said center line, 90.00 feet; thence west 310.22 feet; thence south 165.00 feet; thence west 193.90 feet; thence south 265.30 feet; thence east 10.20 feet; thence south 198.00 feet to the north line of Den Adel Court; thence west along said line, 138.00 feet to the center line of S. Westnedge Avenue; thence

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south along said center line to the center line of Pioneer Street; thence west along the center line of Pioneer Street, 538.55 feet; thence south 33.00 feet to the beginning.

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- B. Beginning at a point of the south line of Pioneer Street 505.00 feet west of the west line of Westnedge Avenue, thence south 132.00 feet; thence west 260.26 feet; thence north 30.00 feet; thence west 40.00 feet; thence south 30.00 feet; thence west 259.50 feet to the east line of Merrill Street; thence north 132.00 feet to the southeast corner of the intersection of Pioneer Street and Merrill Street.
- (1) Thence northeasterly 66.00 feet to the southwest corner of the intersection of Pioneer Street and Merrill Street; thence south 52.00 feet; thence west 100.00 feet; thence north 118.00 feet to the north line of Pioneer Street; thence west along said street 10.00 feet; thence north 132.00 feet; thence west 22.00 feet; thence north 88.00 feet; thence east 22.00 feet; thence north 110.00 feet to the north line of McCourtie Street; thence north 778.67 feet to the south line of Wheaton's Addition; thence west 154.00 feet; thence north 283.14 feet to the north line of Wheaton Ave; thence west 90.75 feet; thence north 198.00 feet to the east and west quarter line of Section 21-2-11 being 90.75 feet west of the west line of Davis Street.
  - (2) Thence north 33.00 feet; thence west 75.25 feet; thence north 132.00 feet; thence east 34.00 feet; thence north 66.00 feet; thence east 49.00 feet; thence north 132.00 feet to the north line of Grant Street; thence east 7.00 feet; thence north 66.00 feet; thence east 14.00 feet; thence north 66.00 feet; thence west 54.00 feet; thence north 264.00 feet to the south line of Austin Street; thence north 122.00 feet; thence west 66.0 feet; thence north 4.0 feet; thence west 66.0 feet; thence north 78.0 feet; thence west 1.45 feet; thence north 87.90 feet; thence east 12.0 feet; thence north 163.0 feet, to the north right-of-way line of Walwood Place; thence east 253.50 feet to the west right-of-way line of Davis Street; thence north, along said line, to a point 332.0 feet south of the south right-of-way line of West Lovell Street; thence west parallel to said line, 192.51 feet; thence north, 66.0 feet; thence west 20.75 feet; thence south 33.0 feet; thence west 424.43 feet more or less to the easterly right-of-way line of Oakland Drive; thence northeasterly, along said line 115.10 feet to the north right-of-way line of Bellevue Place; thence east, along said line 120.00 feet more or less; thence north 66.0 feet; thence east 60.0 feet; thence northerly 199.00 feet more or less to the northeast corner of the intersection of Oakland Drive and West Lovell Street; thence northeasterly along the southeasterly right-of-way line of Oakland Drive to the southeast corner of the intersection of Oakland Drive and South Street; thence east along the south right-of-way line of South Street 329.01 feet; thence northerly to a point on the north right-of-way line of South Street 245.16 feet east of the northeast corner of the intersection of Oakland Drive and South Street; thence north 162.11 feet; thence east 16.12 feet; thence north 64.3 feet to the southeasterly right-of-way line of Michigan Avenue; thence northeasterly along said right-of-way line of Michigan Avenue to a point 187.63 feet northeasterly from the northeast corner of Michigan Avenue and Academy Street; thence south 118.3 feet to the north right-of-way line of Academy Street; thence east along said right-of-way line to a point 66.0 feet east of the southwest corner of lot west of the Revised Plat Section 16; thence north 99.0 more or less feet; thence east 57.42 feet; thence south 99.00 more or less feet to the north right-of-way line of Academy Street; thence east along said line 229.55 feet; thence south to the south right-of-way line of Academy Street; thence south 99.00 feet; thence east 54.855 feet; thence south 16.5 feet; thence east 178.46 feet; thence north 16.5 feet; thence east 90.75 feet; thence south 33.0 feet; thence east 194.96 feet; thence south 132.0 feet to the north right-of-way line of South Street, 76.96 feet west of the west right-of-way line of Westnedge Avenue; thence southwesterly to the point of beginning.

**§ 16-7. Stuart Area Historic District. [Added 7-6-1976 by Ord. No. 1092; amended 4-5-1982 by Ord. No. 1253; 9-10-1990 by Ord. No. 1502; 3-23-1992 by Ord. No. 1528; 4-21-1997 by Ord. No. 1633; 1-18-2005 by Ord. No. 1780; 4-30-2007 by Ord. No. 1824]**

The Stuart Area Historic District, which was created pursuant to Act No. 169 of the Public Acts of 1970, MCLA § 399.201 et seq., as amended, is hereby amended to include all of the properties included in the following boundary description:

- A. To wit: Beginning at a point in the northerly right-of-way line of West Main Street which is 84.0 feet east of

§ 16-7 the easterly right-of-way line of Ingleside Terrace; thence northerly 310.5 feet to a point which is 82.5 feet east of the easterly right-of-way line of Ingleside Terrace; thence easterly and parallel with Douglas Terrace to a point which is 132 feet west of the westerly right-of-way line of Douglas Avenue; thence northerly and parallel with Douglas Avenue 132 feet; thence easterly and parallel with Douglas Terrace 33 feet; thence northerly 66 feet to the southerly right-of-way line of Douglas Terrace; thence westerly with said right-of-way line 33.0 feet; thence northerly and parallel with Douglas Avenue 74.25 feet; thence westerly and parallel with Douglas Terrace to a point which is 165.0 feet west of the westerly right-of-way line of Douglas Avenue; thence northerly and parallel with Douglas Avenue 154.75 feet; thence westerly 19.5 feet; thence northerly 27.0 feet; thence westerly 79.5 feet to the easterly right-of-way line of Ingleside Terrace; thence northerly with the easterly line of Ingleside Terrace 181.5 feet; thence easterly and parallel with Forbes Street 115.5 feet; thence northerly and parallel with Ingleside Terrace 152 feet to the southerly right-of-way line of Forbes Street; thence northeasterly to a point on the north right-of-way line of Forbes Street 76.0 feet west of the west right-of-way line of Douglas Avenue; thence northerly 33.0 feet; thence easterly 2.0 feet; thence northerly 32.34 feet; thence westerly 15.6 feet; thence northerly 53.46 feet to a point on the south right-of-way line of Jefferson Avenue 89.6 feet westerly of the west right-of-way line of Douglas Avenue; thence northwesterly to a point on the north right-of-way line of Jefferson Avenue 165.0 feet westerly of the west right-of-way line of Douglas Avenue; thence northerly 457.38 feet to the south right-of-way line of North Street; thence easterly with said southerly line 145.3 feet to the southwest corner of the intersection of W. North Street and Stuart Avenue; thence northeasterly to the northeast corner of the intersection of W. North Street and Stuart Avenue; thence northerly 90.0 feet along the easterly right-of-way line of Stuart Avenue; thence easterly and parallel with the northerly right-of-way line of W. North Street 115.5 feet, thence southerly 1.0 feet; thence easterly and parallel with the northerly right-of-way line of W. North Street 66.0 feet to the westerly right-of-way line of Staples Avenue; thence northeasterly to a point on the easterly right-of-way line of Staples Avenue 115.0 feet north from the northerly right-of-way of W. North Street; thence easterly and parallel with the north right-of-way line of W. North Street 73.92 feet; thence northerly 17.0 feet; thence easterly and parallel with the northerly right-of-way line of W. North Street 34.34 feet; thence northerly 4.0 feet; thence easterly and parallel with the northerly right-of-way line of W. North Street 115.15 feet to the westerly right-of-way line of Woodward Avenue; thence northeasterly to a point on the easterly right-of-way line of Woodward Avenue 155.5 feet north from the northerly right-of-way line of W. North Street; thence easterly 148.5 feet; thence southerly 13.5 feet; thence easterly 60.19 feet; thence southerly 40.23 feet; thence easterly 16.0 feet; thence southerly 102.4 feet to the northerly right-of-way line of W. North Street; thence southeasterly to a point on the southerly right-of-way line of W. North Street 165.0 feet west of the southwest corner of the junction of Elm Street and W. North Street; thence southerly and parallel with the westerly right-of-way line of Elm Street 132.0 feet; thence easterly and parallel with the southerly right-of-way line of W. North Street 49.5 feet; thence northerly 74.25 feet; thence easterly 115.5 feet to the westerly right-of-way line of Elm Street; thence easterly to a point on the easterly right-of-way line of Elm Street 66.0 feet south from the southeast corner of the junction of W. North Street and Elm Street; thence easterly and parallel with the southerly right-of-way line of W. North Street 66.0 feet; thence southerly and parallel with the easterly right-of-way line of Elm Street 99.0 feet; thence easterly and parallel with the northerly right-of-way line of Ransom Street, to the southwesterly right-of-way line of Michigan Central Railroad (South Haven Branch); thence southeasterly along said right-of-way to where it intersects a line which is 66 feet east of the easterly line of lot 58 of the Revised Prouty's Addition and parallel with Greenwich Place; thence southerly along said line to the northerly right-of-way line of Kalamazoo Avenue; thence southwesterly to the point on the southerly right-of-way line of Kalamazoo Avenue to where said right-of-way line intersects with the northwesterly right-of-way line of the Conrail Railroad; thence southwesterly along said railroad right-of-way to the intersection of said right-of-way and the northerly right-of-way of West Main Street; thence westerly along said right-of-way line of West Main Street to the beginning.

- B. Also beginning at a point on the northerly right-of-way line of West Michigan Avenue at the east line of Allen Boulevard; thence westerly 332.27 feet along the north line of West Michigan Avenue to the easterly right-of-way line of Elm Street crossover; thence N 22°3'40" E 143.10 feet; thence N 32°45'47" E 79.11 feet to southerly right-of-way line of Elm Place; thence easterly 10 feet more or less to the point where said right-of-



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way turns northerly; thence northerly along said right-of-way line to a point 23.0 feet north from the northerly right-of-way line of Alley No. 4; thence N 41°56'09" E 13.45 feet; thence N 43°15'05" E 45.35 feet; thence N 48°10'52" E 49.54 feet; thence N 49°15'00" E 79.04 feet; thence N 72°57'10" E 61.64 feet to the westerly right-of-way line of Allen Boulevard; thence northeasterly to a point on the easterly right-of-way line of Allen Boulevard 5.42 feet north of the northwest corner of lot No. 4 of the Allen & Hayes Addition; thence N 49°15'00" E 131.84 feet to the westerly right-of-way line of Alley No. I of said addition; thence northeasterly to the northwesterly corner of Lot No. 2 of the Old Orchard Place plat; thence easterly along the northerly line of said lot to the westerly right-of-way line of Old Orchard Place; thence northerly to a point on the southerly right-of-way line of Eleanor Street 420.78 feet west of the westerly right-of-way line of Westnedge Avenue; thence northeasterly to the point where the north right-of-way line of Eleanor Street intersects with the southwesterly right-of-way line of Michikal Road; thence N 58°00'39" E 55.01 feet; thence N 59°54'36" E 50.10 feet; thence N 62°25'58" E 47.86 feet; thence N 67°28'18" E 60.48 feet; thence N 64°55'02" E 80.07 feet; thence southerly and parallel with Westnedge Avenue 67.96 feet; thence easterly and parallel with Eleanor Street 16.5 feet; thence southerly and parallel with Westnedge Avenue 66.0 feet to the northerly right-of-way line of Eleanor Street; thence southeasterly to a point on the southerly right-of-way line of Eleanor Street 66.0 feet west of the westerly right-of-way line of Westnedge Avenue; thence southerly and parallel with the westerly right-of-way line of Westnedge Avenue 123.93 feet; thence westerly 66.0 feet; thence northerly and parallel with Westnedge Avenue 129.15 feet to the southerly right-of-way line of Eleanor Street; thence westerly along said right-of-way line 87.78 feet; thence southerly and parallel with Westnedge Avenue 132.0 feet more or less; thence westerly and parallel with Eleanor Street 132.0 feet; thence southerly and parallel with Old Orchard Place 172.0 feet; thence westerly and parallel with Michigan Avenue 117.9 feet; thence southerly and parallel with Westnedge Avenue to a point 229.0 feet north from the northerly right-of-way line of Michigan Avenue; thence westerly and parallel with Michigan Avenue 111.2 feet to the easterly right-of-way line of Allen Boulevard; thence southerly along said right-of-way line to the northerly right-of-way line of Michigan Avenue; thence westerly to the point-of-beginning.

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**§ 16-8. Haymarket Historic District. [Added 1-28-1980 by Ord. No. 1186; amended 4-5-1982 by Ord. No. 1252; 6-2-1997 by Ord. No. 1637; 4-30-2007 by Ord. No. 1824]**

The Haymarket Historic District, which was created pursuant to Act No. 169 of the Public Acts of 1970, MCLA § 399.201 et seq., as amended, is hereby amended to include all of the properties included in the following boundary descriptions:

- A. Beginning at a point on the northerly right-of-way line of East Michigan Avenue, 252.52 feet east of the intersection of said line and the easterly right-of-way line of North Burdick Street (also known as N. Kalamazoo Mall); thence north 100 feet; thence west 32.64 feet; thence north 79.8 feet; thence east 145.5 feet; thence southerly 37 feet more or less to a point that is 340 feet more or less southwesterly of the intersection of said line and the westerly right-of-way line of North Edwards Street; thence northeasterly 340 feet more or less to the intersection of southerly right-of-way line of Ihling Court and westerly right-of-way line of North Edwards Street; thence southeasterly along the westerly right-of-way line of North Edwards Street 255 feet, more or less, to the intersection of said line and the northerly right-of-way line of Bates Alley; thence southwesterly along the northerly right-of-way line of Bates Alley to the intersection of said line with the easterly right-of-way line of Portage Street; thence northwesterly along the easterly right-of-way line of Portage Street, and the extension thereof, 195 feet, more or less to the intersection of said line and the northerly right-of-way line of East Michigan Avenue; thence west, 85 feet, more or less to the point of beginning.
- B. Also, beginning at a point on the southerly right-of-way line of East Michigan Avenue, 99 feet east of the intersection of said line and the easterly right-of-way line of North Edwards Street; thence northeasterly along the southerly right-of-way line of East Michigan Avenue 247.5 feet, to the intersection of the southerly line of East Michigan Avenue and the westerly line of S. Pitcher Street, thence northeasterly 68.03 feet to the intersection of the southerly line of East Michigan Avenue and the easterly line of South Pitcher Street; thence northeasterly along said southerly line, 88.22 feet; thence 426.32 feet southeasterly and parallel to easterly

- § 16-8 right-of-way line of South Pitcher Street; thence southwesterly 88.22 feet to the easterly right-of-way line of South Pitcher Street; thence northwesterly to a point on the easterly right-of-way line of South Pitcher Street which is 181.5 feet southerly of the intersection of said line and the southerly right-of-way line of East Michigan Avenue, thence southwesterly, 66.0 feet, to a point on the westerly line of said South Pitcher Street, said point being 165 feet southeasterly from intersection of said line and the southerly line of East Michigan Avenue; thence southwesterly 177.00 feet parallel to the southerly right-of-way line of East Michigan Avenue; thence northwesterly 65 feet parallel to the westerly right-of-way line of South Pitcher Street; thence southwesterly 82.5 feet parallel to the southerly right-of-way line of East Michigan Avenue; thence northwesterly 100 feet more or less, to the point of beginning.
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- C. Also, beginning at a point on the easterly right-of-way line of North Edwards Street 101 feet northwesterly of the intersection of said line and northerly right-of-way line of East Michigan Avenue; thence northwesterly along the easterly right-of-way line North Edwards Street 209 feet, more or less to the intersection of said line and the southerly right-of-way line of East Water Street; thence 105.5 feet northeasterly along the southerly right-of-way line of East Water Street; thence southeasterly and parallel to the easterly right-of-way line of North Edwards Street, 209 feet; thence southwesterly and parallel to the northerly right-of-way line of East Michigan Avenue 105.5 feet, more or less, to the point of beginning.
- D. The East 44 feet of the South 80 feet of Lot 92, also the South 80 feet of Lot 94, also the West 30.5 feet of the South 80 feet of a blank Lot adjoining the east line of Lot 94 of the Original Plat for the Village (now City) of Kalamazoo according to the plat thereof recorded at Liber 6 of Plats Page 8. **[Added 7-19-2010 by Ord. No. 1870]**
- E. ORIGINAL PLAT OF THE VILLAGE (NOW CITY) OF KALAMAZOO, Liber 6 of Plats Page 8; Part of a blank Lot commencing on the north line of East Michigan Avenue 162.5 feet East of the east line of Burdick Street; thence North 80 feet; thence East 16 feet; thence South 80 feet; thence West 16 feet to the point of beginning. **[Added 7-19-2010 by Ord. No. 1870]**
- F. ORIGINAL PLAT OF THE VILLAGE (NOW CITY) OF KALAMAZOO, Liber 6 of Plats Page 8; Part of a blank Lot commencing on the north line of East Michigan Avenue 252.52 feet East of the east line of Burdick Street; thence North 80 feet; thence West 72.22 feet; thence South 80 feet to the north line of East Michigan Avenue; thence East 72.25 feet along the north line of East Michigan Avenue to the point of beginning. **[Added 7-19-2010 by Ord. No. 1870]**

**§ 16-9. Rose Area Historical District. [Added 5-21-1984 by Ord. No. 1322; amended 4-30-2007 by Ord. No. 1824<sup>78</sup>]**

- A. The Rose Area Historical District, which was created pursuant to Act No. 169 of the Public Acts of 1970, MCLA § 399.201 et seq., is hereby amended to consist of the following described properties:
- (1) 211 Rose Place--Bleykers Addition, E 53 ft. of W 218 ft. of Lot 104 EXC N43 ft.; E 53 ft. of W 218 ft. of Lot 105 EXC S 42 ft.
  - (2) 212 Rose Place--Bleykers Addition, Lot 103 EXC E 100 ft. & W 10 1/2 R; N 23 ft. of Lot 104 EXC E 100 ft. & W 10 1/2 R.
  - (3) 215 Rose Place--Bleykers Addition, E 41 ft. of W 165 ft. of S 23 ft. of Lot 104 & N 57 ft. of E 41 ft. of W 165 ft. of Lot 105.
  - (4) 216 Rose Place--Bleykers Addition, E 3R of W 10 1/2 R of Lot 103; E 3R of W 10 1/2 R of Lot 104 EXC S 43 ft.
  - (5) 219 Rose Place--Bleykers Addition, E 45.75 ft. of W 124 ft. of Lot 104 EXC N 43 ft.; E 45.75 ft. of W

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78. Editor's Note: This ordinance also renumbered former § 16-8 as § 16-10.  
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- 124 ft. of Lot 105.
- (6) 220 Rose Place--Bleykers Addition, E 2 1/2 R of H 7 1/2 R of Lot 103; E 2 1/2 R of W 7 1/2 R of Lot 104 EXC S 43 ft.
  - (7) 223 Rose Place--Bleykers Addition, E 37 ft. of W 78.25 ft. of Lot 104 EXC N 43 ft. Also E 37 ft. of W 78.25 ft. of Lot 105.
  - (8) 224 Rose Place--Bleykers Addition, E 2 1/2 R of W 5 R of Lot 103; E 2 1/2 R of W 5 R of Lot 104 EXC 43 ft.
  - (9) 227 Rose Place--Bleykers Addition, W 2 1/2 R of Lot 105; W 2 1/2 R of Lot 104 EXC N 43 ft.
  - (10) 228 Rose Place--Bleykers Addition, W 2 1/2 R of Lot 103; W 2 1/2 R of Lot 104 EXC S 43 ft.
  - (11) 229 Rose Place--Sills Addition, Part of Lot 24 Beg at pt. in E Li Lot 24, 16 R N of N Li Burr Oak Street, TH W 33.02 ft. TH N 66 ft., TH E 32.92 ft. to E Li SD Lot 24, TH S 66 ft. to Beg. Also Beg at NW Cor of above described parcel, TH 49.2 ft. to E Li Burr Oak Court TH S thereon 12 Ft. TH E 33.2 ft., TH SELY 22.6 ft. to a pt. in W Li of above described parcel, 28 ft. S of Beg., N 28 ft. to Beg. Also beg on the E line of SILLS ADDITION 20 R N of N li of Burr Oak Street; TH W 5R; TH N on E li of Burr Oak Court 2R; TH E to sd E li; TH S on sd E li 2R to beg.
  - (12) 830 S. Rose Street--Bleykers Addition, E 100 ft. of Lot 103 EXC N 38 ft.; E 100 ft. of Lot 104 EXC. S 43 ft.
  - (13) 904 S. Rose Street--Bleykers Addition, S 23 ft. of Lot 104 EXC W 218 ft.; N 24 ft. of Lot 105 EXC W 218 ft.

**§ 16-10. (Reserved)<sup>79</sup>**

**§ 16-11. West Main Hill Historic District. [Added 4-30-2007 by Ord. No. 1824]**

Pursuant to Act No. 169 of the Public Acts of 1970, MCLA § 399.201 et seq., as amended, the West Main Hill Historic District is hereby created. A finding having been made that the district has historic significance, they are hereby designated as historic structures. The district shall include all of the properties included in the following boundary descriptions:

- A. Beginning at the intersection of the center line of West Main Street and the center line of Thompson Street, thence northwest along the center line of West Main Street to the City limits, said line also being the west line of Section 16 Town 2 South Range 11 West, thence south along the west line of Section 16 to the center line of Academy Street, thence southeasterly along center line of Academy Street to the center line of Valley Street, thence south along the center line of Valley Street to the south line of Section 16, thence east along the south line of Section 16 to the center line of Burrows Road, thence south along the center line of Burrows Road to the center line of West Michigan Avenue, thence northeast along the center line of West Michigan Avenue to the intersection of the center line of West Michigan Avenue and the center line of Monroe Street, thence north along the center line of Monroe to the intersection of the center line of Monroe Street and the center line of Academy Street, thence east along the center line of Academy Street to the intersection of the center line of Academy Street and the center line of Bulkley Street, thence north along the center line of Bulkley Street to a point 273 feet south of the south line of Grand Avenue, thence east about 30 feet to the east line of Bulkley Street to a point 273 feet south of the south line of Grand Avenue, thence east 115.5 feet parallel to the north line of Lot 21 of University Addition, thence north 37 feet parallel to the east line of Bulkley Street; thence east seven feet parallel to the north line of Lot 21 of University Addition, thence north

79. Editor's Note: Former § 16-10, South Burdick Historic District, added 9-10-1990 by Ord. No. 1502, amended 4-21-1997 by Ord. No. 1633; 6-2-1997 by Ord. No. 1637, was repealed 7-19-2010 by Ord. No. 1869.

§ 16-11 38 feet parallel to the east line of Bulkley Street to a point on the south line of Lot 25 of University Addition, § 16-12  
 thence east about 42.5 feet along the south line of Lots 25 and 24 of University Addition to the east line of the  
 west half of Lot 24 of University Addition, thence north 66 feet along the east line of the west half of Lot 24  
 of University Addition to a point 132 feet south of the south line of Grand Avenue, thence east parallel to and  
 132 feet south of the south line of Grand Avenue 195 feet to the center line of Thompson Street, thence north  
 along the center line of Thompson Street to the center line of West Main Street and the point of beginning.

B. Also, beginning at the northeast corner of West Michigan Avenue and Stone Street, thence north along the  
 east line of Stone Street to the south line of West Lovell Street, thence east along the south line of West Lovell  
 Street to a point 132 feet east of the east line of Eldred Street, thence south parallel to and 132 feet east of the  
 east line of Eldred Street to the northeasterly line of the Michigan Central Railroad right-of-way, thence  
 southwesterly along said northeasterly line to the center line of West Michigan Avenue (now vacated), thence  
 southwesterly along the center line of West Michigan Avenue (portion vacated) to the east line of Stone Street  
 as extended south, thence north said southerly extension to the northeast corner of West Michigan Avenue  
 and Stone Street and point of beginning.

**§ 16-12. Single resource historic districts. [Added 4-30-2007 by Ord. No. 1824]**

A. Pursuant to Act No. 169 of the Public Acts of 1970, MCLA § 399.201 et seq., as amended, the following  
 historic districts, which were previously in other historic districts, are hereby denominated as single resource  
 historic districts, a finding having been previously made that these structures have historic significance. These  
 single resource historic districts are as follows:

- (1) Ladies Library Historic District, 333 South Park Street (previously part of the South Street Area Historic District). This abstract extends back to August 3, 1878, and is the following described land in Kalamazoo County: That part of Blank Block bounded on the south by Lovell Street, on the east by Church Street (now known as St. John's Place), on the north by South Street, and on the west by Jail (now known as Park Street), in the Town (now City), of Kalamazoo according to the recorded plat thereof as recorded in Liber 6 of Plats on Page 8, Kalamazoo County records described as: Commencing at a point four rods north of Lovell Street which point is on the prolongation of the east line of land deeded by deed recorded in Liber 49 of deeds on page 23 in the office of the Register of Deeds for Kalamazoo County; thence north 55 feet; thence west parallel with the north line of Lovell Street to the east line of Park Street; thence south on the east line of Park Street 55 feet to a point four rods north of the north line of Lovell Street; thence east parallel with the north line of Lovell Street, and four rods distant therefrom to the point of beginning. Also a parcel described as commencing at a point four rods north of Lovell Street, and said point being the southeast corner of the above described parcel thence north on the line of said piece of land 55 feet; thence east parallel with Lovell Street, three rods; thence south parallel with Park Street, 55 feet; thence west parallel with Lovell Street, three rods to the point of beginning.
- (2) Michigan Central Railroad Depot Historic District, 459 North Burdick Street (previously part of the South Street Area Historic District), Lots 1 to 15, inclusive, Block 15, Original Plat of Kalamazoo, except the south 60.0 feet.
- (3) State Hospital Gate House Historic District. 1006 Oakland Drive (previously part of the Stuart Area Historic District): Commencing at the intersecting center line of Wheaton Avenue and Oakland Drive; thence N 22°W 50.0 feet from the place of beginning; thence continuing N 22°W 160.0 feet; thence N 0° 100.0 feet; thence E 90° 230.0 feet; thence S 25° W 215.0 feet; thence westerly 30.0 feet to the place of beginning.
- (4) State Hospital Water Tower Historic District (previously part of the Stuart Area Historic District), 1006 Stadium Drive: Commencing at the intersecting center line of Howard Street and Oakland Drive; thence N 0° 1,705.0 feet; thence E 90° 150.0 feet from the place of beginning; thence N 0° 130.0 feet; thence E 90° 130.0 feet; thence S 0° 130.0 feet; thence westerly 130.0 feet to the place of beginning.

§ 16-12 (5) W.M.U. Oaklands Historic District, 1815 West Michigan Avenue (previously part of the Stuart Area Historic District): Beginning at the intersecting center line of West Michigan Avenue and South Dormitory Road; thence southerly with the South Dormitory center line, 450.0 feet; thence W 90° 360.0 feet; thence N 0° 320.0 feet to the center line of West Michigan Avenue; thence easterly to the place of beginning. § 16-15

B. Pursuant to Act No. 169 of the Public Acts of 1970, MCLA § 399.201 et seq., as amended, the following single resource historic districts are hereby created. A finding having been made that all the structures have historic significance, they are hereby designated as historic structures. These single resource historic districts are described as follows:

- (1) David Lilienfeld House Historic District, 447 West South Street: Commencing on the south line of South Street, 16 rods east of the west line of section 15-2-11 thence south nine rods thence east 76 feet thence north nine rods thence west 76 feet to the beginning.
- (2) Marlborough Local Historic District, 471 West South: Commencing at a point four rods (66. feet) east of southeast corner of South Street and Westnedge Avenue in the City of Kalamazoo, Michigan, to point of beginning. Thence east along the south line South Street 12 rods (198. feet); thence south parallel with the west line of section 15 town 2 South, range 11 West 147.09 feet; thence S.89 degrees 24 feet east parallel with the north line of Lovell Street 76 feet; thence south parallel with the west line of Section 15 132 feet to a point in the north line of Lovell Street (said point being 340 feet east of the west line of Section 15); thence west along the north line of Lovell Street 208 feet; thence north parallel with the west line of Section 15 137.51 feet; thence west four rods (66.feet); thence north parallel with the west line of Section 15 eight rods (132 feet) to the point of beginning.
- (3) Nelson-Kirkpatrick House Historic District, 2104 Sheffield: WAITES ADDITION Lot 1 Blk 7 Also unplatted land in NE 1/4 Sect 29-2-11 Beg at NW cor Lot 1 Blk 7 WAITES ADDITION; TH N 0deg 17min W alg 1/8 li 281ft; TH S 87deg 57min E 287.6ft; TH S 32deg 12min E 80.25ft; TH S 13deg 31min E 181.85ft to NE cor of sd Lot 1 Blk 7; TH S 86deg 1min W 375.15ft to p.o.b.
- (4) Citizens Street Railway Car Barn Historic District, 1301 Cameron: KALAMAZOO LAND & IMPROVEMENT COMPANY'S ADDITION Lots 44-45-46-47.
- (5) First Baptist Church Historic District, 315 West Michigan Avenue: A parcel of land located in the southwest ¼ of Section 15, Town 2 South Range 11 West more particularly described as: Original Plat of the Town (now City) of Kalamazoo, Liber 6 of Plats Page 8; the northeast ¼ of the Block known as Church Square, being 8 Rods by 8 Rods. [Added 7-6-2021 by Ord. No. 2034]

**§ 16-13. Rickman Hotel Historic District. [Added 7-19-2010 by Ord. No. 1869]**

A. Pursuant to Act No. 169 of the Public Acts of 1970, MCLA § 399.201 et seq., as amended, and the provisions of § 16-5A, a single resource historic district to be known as the Rickman Hotel Historic District is established. The historic district shall consist of the following described property:

- (1) The North 46.33 feet of Lot 5 and the East 16 feet of the North 46.33 feet of Lot 4, Block 6 of the original plat for the Village (now City) of Kalamazoo according to the plat thereof recorded at Liber 6 of Plats Page 8.

**§ 16-14. (Reserved)**

**§ 16-15. (Reserved)**



ARTICLE II  
**Historic District Commission**

**§ 16-16. Created; name. [Adm. Code § A229.2; amended 1-18-2005 by Ord. No. 1780]**

Pursuant to Act No. 169, Public Acts of Michigan 1970, MCLA § 399.201 et seq., a Commission, to be known as the "Kalamazoo Historic District Commission," is hereby created.

**§ 16-17. Composition; appointment and terms of members. [Adm. Code § A229.3; amended 1-18-2005 by Ord. No. 1780]**

- A. The Historic District Commission shall consist of seven members residing in the City, one of whom shall be a graduate of an accredited school of architecture who has two years of architectural experience or who is a duly registered architect registered in Michigan if such a qualified person is available for appointment. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation.
- B. Members shall be appointed by the Mayor with the approval of the City Commission. Appointments shall be for three-year terms except the initial appointments shall provide for three three-year terms, two two-year terms and two one-year terms so that subsequent appointments shall not recur at the same time. Two of the initial three-year term appointments shall be made from a list of citizens submitted by a duly organized and existing preservation society or societies. All terms terminate on January 1, except that a member shall continue in office until a successor is appointed and takes office. Members shall be eligible for reappointment. In the event a vacancy on the Commission occurs, an interim appointment shall be made by the Mayor within 60 calendar days, with the approval of the City Commission, to complete the unexpired term.
- C. A member may be removed from the Commission due to acts or omissions contrary to the purpose of the Commission or for absence from three of six consecutive meetings without justifiable cause. The member may be removed with a majority vote of the City Commission.

**§ 16-18. Election and terms of officers. [Adm. Code § A229.3.1; amended 1-18-2005 by Ord. No. 1780]**

The Commission shall elect from its membership a chairperson and such other officers as it deems advisable. The terms of the officers shall be for one year and they shall be eligible for reelection.

**§ 16-19. Quorum; number of members required for action. [Adm. Code § A229.3.1]**

A majority of the members of the Commission shall constitute a quorum. A majority of the members is required to take action on all matters not of an administrative nature, but a majority of a quorum may deal with administrative matters.

**§ 16-20. Rules of procedure. [Adm. Code § A229.3.2]**

The Commission shall propose rules of procedure for approval by the City Commission.

**§ 16-21. Meetings to be open to public; right to be heard. [Adm. Code § A229.3.3; amended 1-18-2005 by Ord. No. 1780]**

The business that the Commission may perform shall be conducted at a public meeting of the Commission held in compliance with the Open Meetings Act, 1976 PA 267, MCLA §§ 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the Open Meetings Act, 1976 PA 267, MCLA §§ 15.261 to 15.275. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.

**§ 16-22. General powers and duties. [Adm. Code § A229.3.4.1; amended 3-23-1992 by Ord. No. 1527;**

- A. Historical preservation is a public purpose. To serve that purpose, the Historic District Commission is hereby charged with the following responsibilities:
- (1) The Kalamazoo Historic District Commission is empowered to regulate work on the exterior of historic resources and nonhistoric resources in historic districts in the City of Kalamazoo and shall otherwise have all powers invested in Historic District Commissions pursuant to the Local Historic Districts Act, MCLA § 399.201 et seq., 1970 P.A. 169, as amended.
  - (2) To regulate work on resources which, by City ordinance, are historic or nonhistoric resources located within local historic districts, including but not limited to the moving of any structure into or out of, or the building of any structure in, an historic district.
  - (3) In those instances where efforts of the Historic District Commission to preserve an historic resource in the historic district or districts fail, or it is deemed that public ownership is most suitable, to recommend that the City Commission acquire such property.
  - (4) To establish local design standards and guidelines based upon and equivalent to the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," which may take the form of definitions, written descriptions, supplementary sheets, graphic displays, standards, and/or maps.
  - (5) The Kalamazoo Historic District Commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines for work on historic resources to carry out its duties under this chapter and the Local Historic Districts Act, MCLA § 399.201 et seq.
- B. The Historic District Commission may:
- (1) Maintain public historic resources in the local historic district or districts using its own funds, if not specifically earmarked for other purposes, or those public funds committed to this use by the City Commission.
  - (2) Act as the agent of the City Commission to accept and administer grants and gifts for historical preservation purposes in the historic district or districts.

**§ 16-23. Approval or rejection of work on structures in historic districts, or structures being moved into or out of or constructed in historic districts. [Adm. Code §§ A229.1 - A229.4.3, A229.4.5, A229.5; amended 3-23-1992 by Ord. No. 1527; 1-18-2005 by Ord. No. 1780; 4-30-2007 by Ord. No. 1824]**

- A. A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within an historic district or, if required under Subsection E, work affecting the interior arrangements of a resource is performed within an historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the Building Official. The Building Official shall immediately refer the application for a permit together with all required supporting materials that make the application complete to the Historic Preservation Coordinator. A permit shall not be issued and proposed work shall not proceed until the Historic Preservation Coordinator or the Historic District Commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this chapter. A certificate of appropriateness shall not be issued unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 P.A. 230, MCLA §§ 125.1501 to 125.1531. The City may charge a reasonable fee to process a permit application, said fee to be set by the Building Official.



- § 16-23
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- B. In reviewing plans, the Historic Preservation Coordinator shall consider and apply relevant design standards established by the Historic District Commission and adopted by resolution of the City Commission and is authorized to approve proposed work which complies with the Historic Design Standards, as adopted, and issue certificates of appropriateness. The Historic Preservation Coordinator shall regularly report the issuance of such certificates of appropriateness to the Historic District Commission. On a monthly basis, the Historic District Commission shall review the certificates of appropriateness that have been issued to determine the appropriateness thereof and whether or not the delegated responsibilities of the Historic Preservation Coordinator should be continued. The Historic District Commission shall provide to the Historic Preservation Coordinator or other delegated staff specific written standards for issuing certificates of appropriateness under this subsection.
- C. If the proposed work is not addressed by the Design Standards, then that proposal shall be referred to the Historic District Commission.
- D. When reviewing the application for permit, the Historic District Commission shall follow the Secretary of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" as set forth in 36 CFR Part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the Historic District Commission may be followed if they are equivalent in guidance to the Secretary of Interior's standards and guidelines and are established or approved by the Department of History, Arts, and Libraries. The Historic District Commission shall also consider all of the following:
- (1) Local design guidelines, as they are adopted by resolution of the City Commission; and
  - (2) The historical or architectural value and significance of the resource and its relationship to the historical value of the surrounding area; and
  - (3) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area; and
  - (4) The general compatibility of the design, arrangement, texture and materials proposed to be used; and
  - (5) Other factors, such as aesthetic value, that the Historic District Commission finds relevant.
  - (6) Whether the applicant has certified in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 P.A. 230, MCLA §§ 125.1501 to 125.1531.
- E. The Historic Preservation Coordinator or the Historic District Commission shall review and act upon only exterior features of a resource and, except for noting compliance with the requirement to install a fire alarm system or a smoke alarm, shall not review and act upon interior arrangements unless specifically authorized to do so by the City Commission or unless interior work will cause visible change to the exterior of the resource. The Historic District Commission shall not disapprove an application due to considerations not prescribed in Subsection B.
- F. If an application is for work that will adversely affect the exterior of a resource the Historic District Commission considers valuable to the City, state, or nation, and the Historic District Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the City, state, or nation, the Historic District Commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.
- G. Work within an historic district shall be permitted through the issuance of a notice to proceed by the Historic District Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Historic District Commission to be necessary to substantially improve or correct any of the following conditions:

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- (1) The resource constitutes a hazard to the safety of the public or to the occupants.
  - (2) The resource is a deterrent to a major improvement program which will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing and environmental clearances.
  - (3) Retention of the resource would cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
  - (4) Retaining the resource is not in the interest of the majority of the community.
- H. The Historic District Commission and the Historic Preservation Coordinator shall file with the Building Official the certificate of appropriateness, notice to proceed or notice of denial for plans submitted to it for review.
- (1) No work shall begin until a certificate of appropriateness or a notice to proceed is filed.
  - (2) A certificate of appropriateness, notice to proceed or notice of denial is binding on the Building Official, Historic Preservation Coordinator, and the applicant. No permit shall be issued and no work shall be done contrary to any certificate of appropriateness, notice to proceed or notice of denial issued.
  - (3) The failure of the Historic District Commission or the Historic Preservation Coordinator to act within 60 calendar days after the date a complete application is filed, unless an extension is agreed upon in writing by the applicant and the Historic District Commission or the Historic Preservation Coordinator, shall be considered to constitute approval.
  - (4) A notice of denial shall be accompanied by a written explanation including:
    - (a) The reason for denial citing the Secretary of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" and relevant standards from the Historic District Commission Standards and Guidelines; and
    - (b) A proposal for a remedy; and
    - (c) A notice that an application may be resubmitted for Commission review when suggested changes have been made; and
    - (d) Notification of the applicant's rights of appeal to the State Historic Preservation Review Board and to the circuit court.

**§ 16-24. Plans for preservation of structures. [Adm. Code § A229.4.4; amended 1-18-2005 by Ord. No. 1780]**

In case of an application for a permit for work affecting the exterior appearance of a resource or for the moving or demolition of a resource which the Commission deems so valuable to the City, state or nation that the loss thereof will adversely affect the public purpose of the City, state or nation, the Commission shall endeavor to negotiate with the owner an economically feasible plan for preservation of the resource.

**§ 16-25. Records. [Adm. Code § A229.3.3; amended 1-18-2005 by Ord. No. 1780]**

The Commission shall keep a record of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be maintained in the Planning and Community Development Department and shall be made available to the public in compliance with the Freedom of Information Act, 1976 PA 442, MCLA §§ 15.231 to 15.246.

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**§ 16-26. Appeals from Commission. [Adm. Code § A229.7; amended 1-18-2005 by Ord. No. 1780]**

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- A. Any persons jointly or severally aggrieved by a decision of the Historic District Commission may file an appeal with the State Historic Preservation Review Board of the Michigan Historical Commission within the Department of State. The appeal shall be filed within 60 days after the decision is furnished to the applicant. A permit applicant aggrieved by a decision of the State Historic Preservation Review Board may appeal the decision to the Kalamazoo County circuit court.
- B. Any citizen or duly organized historic preservation organization in the local unit, as well as resource property owners, jointly or severally aggrieved by the decision of the Historic District Commission may appeal the decision to the Kalamazoo County circuit court except that a permit applicant under § 16-23 may not appeal to the court without first exhausting the right to appeal to the State Historic Preservation Review Board as specified in § 16-26A.

**§ 16-27. Failure to comply with certificates of appropriateness. [Added 3-3-1986 by Ord. No. 1371; amended 3-23-1992 by Ord. No. 1527; 1-18-2005 by Ord. No. 1780]**

- A. Failure to begin work within a reasonable time or at least within six months following the issuance of the certificate of appropriateness or notice to proceed, or failure to complete work within a reasonable period of time shall constitute abandonment by the applicant, and the certificate of appropriateness or notice to proceed shall expire. No work shall begin until a new certificate of appropriateness or notice to proceed is issued or a request for extension is filed and approved in accordance with this chapter.
- B. If the work is not commenced or completed in a timely manner or is otherwise not in accordance with the certificate of appropriateness or the notice to proceed, the applicant shall be notified by the building official and given a reasonable period of time in which to correct said work to conform to the certificate of appropriateness or the notice to proceed.
- C. When work has been done upon a resource without a permit, and the Commission finds that the work does not qualify for a certificate of appropriateness, the Commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply or cannot comply with the order of the court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. When acting pursuant to an order of the circuit court, a Commission or its agents may enter a property for purposes of this section.

**§ 16-28. List of improvements subject to historic district procedures, though building permit not required. [Added 3-23-1992 by Ord. No. 1527; amended 1-18-2005 by Ord. No. 1780]**

If a resource is governed by this chapter, and the work to be done includes one or more items on the following list of improvements, which improvements do not otherwise require a building or other permit from the Department of Planning and Community Development, then the procedures of Article II of this chapter shall apply to said improvement:

- A. New storm doors and windows;
- B. Nonstructural repairs of trim and architectural ornamentation;
- C. Fences: repairs and/or new construction;

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- D. Decks: repairs and/or new construction;
- E. Siding repairs;
- F. Minor roofing repairs;
- G. Change of sign faces;
- H. Installation of satellite dishes and antennas;
- I. Exterior lighting freestanding and/or attached to the resource;
- J. Retaining walls; and/or
- K. Replacement windows.

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**§ 16-29. Demolition by neglect. [Added 1-18-2005 by Ord. No. 1780]**

- A. Upon a finding by the Commission that a historic resources within the local historic district or a proposed historic district subject to its review and approval is threatened with demolition by neglect, the Commission may do either of the following:
  - (1) Require the owner of the resource to repair all conditions contributing to demolition by neglect.
  - (2) If the owner does not make the necessary repairs within a reasonable time, the Commission or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner, and may be levied by the City as a special assessment against the property. The Commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

**§ 16-30. Violation; fine; payment of costs. [Added 1-18-2005 by Ord. No. 1780]**

In addition to any penalties set forth in the Local Historic Districts Act, MCLA § 399.201 et seq., a person, individual, partnership, firm, corporation, organization, institution or agency of government that violates this chapter may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished.

**§ 16-31. Review of applications within proposed historic district; emergency moratorium. [Added 1-18-2005 by Ord. No. 1780]**

- A. Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, or cultural significance or a proposed local historic district, the City Commission may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed local historic district be referred to the Historic District Commission as described in § 16-23. The Historic District Commission shall review applications with the same powers it would apply if the proposed local historic district was an established local historic district. The review may continue in the proposed local historic district for not more than one year or until such time as the City Commission approves or rejects the establishment of the local historic district by ordinance, whichever comes first.
- B. If the City Commission determines that pending work will cause irreparable harm to resources located within an established historic district or a proposed historic district, the City Commission may by resolution declare an emergency moratorium of all such work for a period not to exceed six months. The City Commission may extend the emergency moratorium for an additional period not to exceed six months upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

**Chapter 17**  
**HOUSING CODE**



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**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 10-18-1999 by Ord. No. 1687; amended in its entirety 12-1-2014 by Ord. No. 1929. Subsequent amendments noted where applicable.]**

**GENERAL REFERENCES**

<b>Authority of housing inspectors to serve summons for Code violation — See § 1-8B.</b>	<b>Wastewater discharge regulations and enforcement procedures — See Ch. 28.</b>
<b>Buildings and building regulations — See Ch. 9.</b>	<b>Solid waste — See Ch. 31.</b>
<b>Fire prevention and protection — See Ch. 15.</b>	<b>Swimming pools — See Ch. 34.</b>
<b>Garbage and trash — See Ch. 15A.</b>	<b>Tax exemption for certain housing projects — See § 35-4.</b>
<b>Historic districts — See Ch. 16.</b>	<b>Water — See Ch. 38.</b>
<b>Discrimination in real estate transactions — See § 18-17 et seq.</b>	<b>Trees — See Ch. 42.</b>
<b>Nuisances — See § 22-3 et seq.</b>	<b>Zoning Ordinance — See App. A.</b>





**STATUTORY REFERENCES**

**Housing law — See MSA § 5.2771 et seq.; MCLA § 125.401 et seq.**

**Stille-DeRossett-Hale Single State Construction Code Act — MCLA § 125.1501 et seq.**

**Authority of City to adopt and enforce housing ordinance — See MSA § 5.2778; MCLA § 125.408.**

**Neighborhood Enterprise Zone Act — MCLA § 207.771 et seq.**



ARTICLE I  
**Administrative Provision**

**§ 17-1. Title and purpose.**

- A. Title. This chapter shall be known and may be cited as the "Housing Code of the City of Kalamazoo."
- B. Purpose. The general purpose of this chapter is to protect the public health, safety and the general welfare of the people of the City. These general objectives include, among others, the following specific purposes:
- (1) To protect the character and stability of residential areas within the City.
  - (2) To provide minimum standards for kitchen, heating and sanitary facilities necessary to the health and safety of occupants of buildings.
  - (3) To provide standards for light and ventilation necessary to health and safety.
  - (4) To prevent additions or alterations to existing dwellings that would be injurious to the life, health, safety or general welfare of the occupants of such dwellings or neighboring properties.
  - (5) To prevent the overcrowding of dwellings by providing minimum space standards per occupant of each dwelling unit.
  - (6) To provide minimum standards for the maintenance of existing residential buildings and thus to prevent the spread of slums and blight.
  - (7) To preserve the taxable value of lands and buildings throughout the City.
- C. Unless otherwise expressly modified or deleted by this chapter, if a conflict occurs between a provision of this chapter and a provision of any national or published code adopted by the City, the provisions of the national and published code shall control.

**§ 17-2. Definitions.**

- A. Usage.
- (1) Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this Code, have the meanings shown in this chapter.
  - (2) Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.
  - (3) Terms defined in other codes. Where terms are not defined in this code and are defined in the International Property Maintenance Code, building, fire prevention, zoning, plumbing or mechanical codes, ASME A17.1 and NFPA 70, such terms shall have the meanings ascribed to them as in those codes.
  - (4) Terms not defined. Where terms are not defined, through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.
  - (5) Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."
- B. Terms defined. As used in this chapter, the following terms shall have the meanings indicated:
- ACCESSORY BUILDING — Any building or structure, not used as a dwelling, which is located on the same

premises as a dwelling.

AGENT (RESPONSIBLE LOCAL) — See § 17-17.

APPROVED — Determined by the City to be in compliance with this chapter.

BASEMENT — A portion of a building located entirely underground or partly underground (having more than 1/2 its clear floor-to-ceiling height below the average grade of the adjoining ground).

BASIC STRUCTURAL ELEMENTS — The parts of a building which provide the principal strength, stability, integrity, shape and safety, including, but not limited to, plates, studs, joists, rafters, stringers, stairs, subflooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry, and all other essential components.

BED-AND-BREAKFAST INN — An establishment located within a detached house that is the principal residence of the operator (or his/her designee), where short-term lodging is offered for compensation and that includes the service of one or more meals to guests.

BEDROOM — Any room or space used or intended to be used for sleeping purposes.

BOARD or BOARD OF APPEALS — The Building Board of Appeals established in § 9-327.

BUILDING OFFICIAL — The individual, including authorized representatives, as defined in § 9-1C of the City Code.

CERTIFICATE OF COMPLIANCE — A document issued by the enforcing agency which states that the listed property is in substantial compliance with the requirements of this chapter.

COMMON AREAS — Those interior and exterior areas normally accessible to all occupants, such as, but not limited to, hallways, stairs, and yards. "Common areas" do not include dwelling units, exterior or interior areas assigned to specific occupants, such as assigned storage or parking places, or such places as offices or areas from which occupants are generally excluded.

CONDEMNED — Unfit for occupancy.

DETERIORATE — To decay, decompose, or degenerate.

DETERIORATION or DETERIORATED — The fact or process of decay, infestation, rotting, corrosion, decomposition, weakening, or degeneration which has progressed to the point where it has resulted in or will soon result in making an object or mechanism unsafe, unsanitary, inoperable, unusable, or unsuitable for its intended use, including, but not limited to, the advanced stage of rot, rust, mold, insect ingestion, infestation, or destruction.

DUPLEX — A building with two dwelling units.

DWELLING — Any building which is wholly or partly used or intended to be used for living by human occupants.

DWELLING UNIT — A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EGRESS — Egress is what an exit provides. A means of egress consists of three separate and distinct parts: the exit access (portion that leads from any occupied point in a building or structure to an exit), the exit (defined below) and the exit discharge (portion between the termination of an exit and a public way).

EXIT — That portion of a means of egress system separated from other interior spaces of a building or structure by fire-resistance-rated construction and opening protectives as required to provide a protected path of egress travel between the exit access and the exit discharge. Exits include exterior exit doors at ground level, exit enclosures, exit passageways, exterior exit stairs, exterior exit ramps and horizontal exits.

FAMILY — See City of Kalamazoo Code of Ordinances, Appendix A (Zoning), Chapter 12 (Definitions and Use Categories). Any person seeking the rights and privileges afforded a member of a family by this chapter

§ 17-2 shall have the burden of proof by clear and convincing evidence of his or her family relationship. § 17-2

**GARBAGE** — The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food, including cans, containers, and wrappings wasted therewith.

**GARBAGE CONTAINER** —

- (1) A watertight container that is constructed of durable material impervious to rodents that is capable of being serviced without creating unsanitary conditions, or such other containers that have been approved by the Kalamazoo County Health Department. Containers shall have tight-fitting covers or lids; or
- (2) A receptacle designed to be transported by or mechanically emptied into a refuse collection vehicle, and does not include receptacles used in office buildings, businesses, and single-family dwellings which are less than twenty-gallon capacity.

**GOOD REPAIR** — To be properly installed, stable, and maintained sufficiently free of defects or deterioration so as to be functional for its present use and to be safe and sanitary.

**GOOD WORKMANSHIP** — Completing a task of construction, repair, replacement, alteration or maintenance to industry standards using like materials so that the result is free of defects, operates as intended, creates no unsafe conditions and is executed in a skilled manner to be generally plumb, level, square, in line, undamaged and without marring adjacent work. Proof of structural soundness may be required from the property owner. Evidence shall be submitted by a licensed architect or engineer or other appropriate licensed professional.

**HABITABLE AREA** — All areas within a dwelling unit used for living, sleeping, cooking or eating, excluding:

- (1) Bathrooms and/or toilet compartments.
- (2) Foyers, hallways and connecting corridors too small to be used for any other purpose than as foyers and connecting corridors.
- (3) Stairways.
- (4) Closets and storage space used as such or too small to be used for anything else.
- (5) Three-season porches.

**HISTORIC** — Buildings that are listed in or eligible for listing in the National Register of Historic Places, or designated as historic under an appropriate state or local law.<sup>80</sup>

**HOTEL/MOTEL** — Any establishment that does not meet the definition of "bed-and-breakfast" where short-term lodging is offered for compensation.

**LOFT APARTMENT** — A dwelling unit located in the upper stories of a mercantile, warehouse, or factory, usually not partitioned off into rooms. If partitions are installed, they are not required to extend to the ceiling or contain doors (in order to allow borrowing light and ventilation from adjacent areas).

**MECHANICAL EQUIPMENT** — Includes heating equipment, water heaters, and other items specifically covered by the City's Mechanical/Plumbing Code.<sup>81</sup>

**MINOR VIOLATIONS** — Violations which do not pose an immediate or near term threat to the physical health or safety of the occupant(s) or public. They include, but are not limited to, such items as worn or torn carpeting, holes in interior wall or ceiling surfaces, loose hinges or door knobs, checked window glazing, low heat in one room or area, dripping faucets, absence of street address numerals, minor peeling exterior paint, etc.

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**80. Editor's Note:** See Ch. 16, Historic Districts.

**81. Editor's Note:** See Ch. 9, Buildings and Building Regulations.

§ 17-2

§ 17-2

**MOBILE HOME** — A structure, transportable in one or more sections, which is built on a chassis and is designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Any mobile home occupied by someone other than its owner shall be subject to the required rental registration and certification requirements of this chapter.

**MULTIPLE DWELLING** — A residential building containing three or more dwelling units arranged either side by side or one above the other (also "apartment," "townhouse," and "garden apartment"). Such term shall also mean any building containing:

- (1) Two or more dwelling units and one or more commercial occupants; or
- (2) Two or more commercial occupants and one or more dwelling units.

**NUISANCE** —

- (1) Any public nuisance known at common law or equity.
- (2) Any condition which might attract and be dangerous to the public, whether in a dwelling, on the premises upon which a dwelling is located or upon an unoccupied lot near a dwelling. This includes, but is not limited to, abandoned wells, cisterns, shafts, basements, excavations, structurally unsound fences, outbuildings or structures, lumber, vegetation, mounds of gravel, sand or earth which might prove a hazard for the public and whatever is dangerous to human life or is detrimental to health.
- (3) Overcrowding a room with occupants.
- (4) Lack of adequate egress.
- (5) Insufficient ventilation or illumination.
- (6) Inadequate or unsanitary sewage or plumbing facilities.
- (7) Improper disposal of garbage, rubbish, refuse, and/or trash.
- (8) Whatever renders air, food, or drink unwholesome or detrimental to health as determined by the health officer.
- (9) Insufficient support, inadequate sewerage, drainage, heating, or wiring.
- (10) Any violation of the provisions of this chapter relating to the aforesaid declared nuisances.

**OCCUPANT** — Any person who regularly lives, sleeps, cooks, eats, or has actual legal possession of a dwelling unit or rooming unit. An occupant may be a person other than one who has a leasehold or other legal possessory interest in a dwelling unit or rooming unit.

**ONE-FAMILY DWELLING** — A residential building containing a dwelling unit for occupancy by only one family.

**OWNER** —

- (1) Any person who, alone or jointly or severally with others:
  - (a) Shall have the legal or equitable title to a dwelling with or without the accompanying actual possession thereof; and/or
  - (b) Shall be the land contract purchaser of any premises or dwelling; or
  - (c) Shall have the charge, care, custody, possession, or control of any dwelling as owner or agent of the owner or as fiduciary.

§ 17-2 (2) A housing cooperative or condominium, whether it is a partnership, corporation, or any type of association, shall be considered an owner of the buildings, grounds, and dwelling units which are part of the cooperative or condominium. § 17-2

**PLUMBING** — Includes all of the following supplied facilities and equipment: water pipes, garbage disposal units, waste pipes, toilets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other supplied fixtures, together with all connections to water and sewer lines.

**PREMISES** — Any improved or unimproved lot or parcel of land and the buildings thereon.

**REFUSE** — Any waste product which is not water-carried and which is composed wholly or partly of such materials as garbage, rubbish, sweepings, industrial solid wastes, or domestic solid wastes, organic wastes or such other substances as may become a nuisance.

**RENT** — Compensation or return of value given periodically, or for a set period of time, in exchange for the right of possession of a dwelling or dwelling unit.

**RENTAL UNIT** — Any dwelling unit rented or leased or any dwelling occupied as a home or family unit containing certain rooms in excess of those occupied by members of the immediate family and occupied as a home or family unit which is leased or rented to one or more persons outside the family. Dwelling units in a housing cooperative or condominium shall be considered rental units for purposes of this section, if they are rented.

**RESIDENTIAL COLLECTIVE** — A residential dwelling, other than a multiple dwelling or rooming house, in which sleeping, cooking, and eating facilities are let by the owner or operator to more than two persons who are not related by blood, marriage, or adoption to the owner or operator or to each other. This definition shall include any society, club, fraternity, sorority, association, lodge, federation, organization, or group of individuals whose domestic relationship is of a transitory or seasonal nature.

**RESIDENTIAL COOPERATIVE** — Any cooperative organized under the laws of the State of Michigan that provides residential units for its shareholders or members. All residential cooperatives shall be subject to inspection pursuant to the provisions of this chapter, unless exempted by the rules promulgated initially through the adoption of a resolution by the City Commission or as subsequently amended by the City Manager pursuant to § 17-12C.

**ROOMING HOUSE, BOARDINGHOUSE, or LODGING HOUSE** — Any dwelling, or that part of any dwelling or dwelling unit, containing one or more rooming units in which space is let primarily for sleeping purposes, with or without meals, by the owner or agent to persons who are not related to the owner or operator by blood, marriage, or adoption. (Rooming house occupancy limits will vary by zoning district.)

**ROOMING UNIT or SLEEPING ROOM(S)** — Any room or group of rooms forming a single habitable unit or intended to be used for living and sleeping but not for cooking or eating purposes.

**RUBBISH** — Any combustible or noncombustible waste materials, except garbage, including, but not restricted to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, plastics, tree branches, yard trimmings, tin cans, metals, automotive parts, mineral matter, glass, crockery, duct and the residue from the burning of combustible materials.

**STRUCTURALLY SOUND** — That all basic structural elements (see definition) shall provide strength, stability, integrity, shape, and safety. Proof of structural soundness may be required from the property owner. Evidence shall be submitted by a licensed architect or engineer.

**SUBSTANTIAL VIOLATIONS** — Violations which pose an immediate or near-term threat to the physical health or safety of the occupant(s) or public. They include but are not limited to such items as lack of dwelling unit heat or water, broken/leaking/plugged sanitary sewer or drains, improper or inadequate venting of fossil-fuel-burning appliances, loose or missing stair treads or rails, foundation walls in danger of collapse, lack of required functioning smoke alarms, blocked or unsafe exit paths, etc.

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**SUPPLIED** — Paid for, furnished, or provided by or under the control of the owner.

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**TENANT** — A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**TWO-FAMILY DWELLING** — A residential building containing two dwelling units, each intended for occupancy by only one family.

**UNFIT FOR HUMAN HABITATION** — Any dwelling or dwelling unit which, because of its condition or the condition of the lot upon which the dwelling or dwelling unit stands or any accessory structure thereof is dangerous to life, safety, or the general welfare of the occupants or of the public, shall be deemed unfit for human habitation. A dwelling or dwelling unit deemed unfit for human occupancy shall be condemned until such condition(s) is remedied.

**§ 17-3. Service of notices or orders under chapter.**

Unless otherwise provided for the purpose of this chapter, a person is considered to have received a notice or order on the date it was personally served or the date the notice or order is mailed, certified or first-class postage prepaid, to him or her at the last known address according to City records.

**§ 17-4. Compliance with chapter generally.**

No person shall occupy, rent, lease or permit any occupancy of any dwelling or dwelling unit unless it substantially complies with all applicable provisions of this chapter. Occupancy of any dwelling unit regulated by this chapter shall create a rebuttable presumption that such occupancy has occurred with the express and/or implied consent of the owner. The provisions of the Michigan Building Code, also known as the Stille-DeRossett-Hale Single State Construction Code Act, which is Public Act 230 of 1972, as amended (MCLA § 125.1501 et seq.), and rules promulgated pursuant to that statute, supersede any contrary provision of this chapter for residential dwelling units constructed in compliance with the then-current provisions of that statute.

**§ 17-5. Temporary dwelling to comply with chapter.**

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

**§ 17-6. Application of chapter to hotels and motels.**

Every provision of this chapter which applies to rooming houses shall also apply to hotels and motels except to the extent that any such provision is found in conflict with the laws of the state or with the lawful regulations of any state board or agency.

**§ 17-7. Occupancy of house trailers as dwellings.**

No house trailer or mobile home, whether mobile or not, shall be occupied as a dwelling within the City except in legally established trailer parks or mobile home communities.

**§ 17-8. Authority to condemn and procedures; persons not to occupy or be present in dwellings that are condemned or that constitute a nuisance.**

- A. The City shall have the authority to condemn any dwelling that is unfit for human habitation or occupancy and constitutes a nuisance as defined in § 17-2 or any other applicable code. Upon a determination that a nuisance exists, the City may order the prompt vacation of the dwelling by posting a notice of condemnation at a conspicuous location on the property and by mailing written notice to the owner of record. The City shall also have the authority to immediately board up or otherwise secure an unoccupied condemned dwelling if it is open to casual entry. Further, the City may require the owner to place a condemnation notice on the inside



§ 17-8 portion of a first floor window facing the street. No person shall remove or cause to be removed any condemnation notice without permission of the City. § 17-12

- B. No person shall occupy or be present in a dwelling, dwelling unit, or the premises, if it is condemned or if it constitutes a nuisance as defined in § 17-2. Occupancy of any such dwelling or dwelling unit creates a rebuttable presumption that the occupancy has occurred with the permission of the owner. However, at reasonable times between 8:00 a.m. and 9:00 p.m., the owner, owner's agent or tenant may be present for the purposes of making repairs or removing personal property from the dwelling or premises.
- C. Any person in violation of any provisions of this section shall be deemed guilty of a misdemeanor.

**§ 17-9. Abatement of rent in case of dwelling unfit for human habitation.**

If any portion of a building constructed as, or altered into, a dwelling is occupied for human habitation in violation of this chapter and has been deemed by the City as unfit for human habitation, the owner, owner's agent or lessor shall not, during the period of unlawful occupation, accept, retain or recover rent or maintain any action or special proceedings for possession of the premises for nonpayment of rent. The City may declare the premises unfit for human habitation and proceed to condemn the dwelling and order its vacation under § 17-8.

**§ 17-10. References to codes.**

The terms "Building Code," "Electrical Code," "Mechanical Code," and "Plumbing Code," as used in this chapter or notices issued pursuant to this chapter, refer to those respective codes in Chapter 9 of the Kalamazoo City Code. The word "code" when not used in any of the foregoing contexts, but used in this chapter or in a notice issued pursuant to this chapter, refers to this chapter. "IPMC" refers to the most recent published edition of the International Property Maintenance Code.

**§ 17-11. Removing or disconnection of required services, facilities, equipment or utilities.**

No person shall cause any utility which is required under this chapter or state law to be removed or shut off from or disconnected from any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies where discontinuance of service is approved by the City. The requirements of § 17-22 of the City Code of Ordinances shall not apply to § 17-11.

**§ 17-12. Inspections to enforce chapter — Generally.**

For purposes of enforcement and administration of Chapter 17 of the City Code, the following shall apply:

- A. The City shall make inspections for the enforcement of this chapter. Such inspections are based on a legislative reaffirmation by the City that the most effective way to obtain compliance with the minimum requirements of this chapter is through routine periodic inspections of all premises regulated by this chapter, including hotels, motels, bed-and-breakfast inns, residential cooperatives, residential collectives, rooming houses, and all rental housing as mandated by Michigan law, and as expressly endorsed by the United States Supreme Court. These inspections may be supplemented as needed with inspections undertaken on the basis of one or more of the provisions found elsewhere in this chapter.
- B. Subject to the provisions of § 17-12.1, the Building Official, or any inspectors working under the Building Official's authority, may request permission to enter all premises regulated by this chapter, at reasonable hours, to undertake an inspection. Upon an emergency, as defined under rules promulgated by the City, the inspector or team of inspectors shall have the right to enter at any time. Unless otherwise provided in this chapter, or by a policy or an administrative rule, such inspections shall include a thorough examination of all parts of such rental units and the premises connected therewith, including all common areas and all dwelling units, for any violation of the applicable regulations which could affect the health, safety and welfare of any

- § 17-12.1 occupant or use of the premises, regardless of whether such dwelling units are rental units as defined by this chapter. The Building Official or any other inspector is also empowered to make an inspection of any portion of any premises regulated by this chapter when there is probable cause to suspect that there is a violation of this chapter at the premises in question. Such inspections may be accomplished by a search warrant as provided for by this chapter and state law, by access voluntarily provided by the owner or responsible local agent to unoccupied units and common areas, or by access voluntarily provided by a resident of a dwelling unit occupied by that resident.
- C. The City Manager may promulgate rules governing the length of certificates of compliance, the number of units inspected in multiple dwellings or multiple-dwelling complexes, and under what circumstances inspections are waived. The initial rules shall take effect upon endorsement by resolution of a majority of the City Commission. The City Manager shall have the authority to amend or replace any rules previously endorsed by resolution of the City Commission, provided that any proposed amendment or replacement shall be presented to the City Commission as an information item on the agenda of a regularly scheduled City Commission meeting held at least 30 days prior to the proposed effective date of such amended or replacement rules.
- D. The City shall have the authority under this chapter to obtain a search warrant to perform any inspection authorized by this chapter or by state law. Such a search warrant is considered an administrative search warrant and shall permit an inspection to go forward only for purposes authorized by this chapter and state law. The City may also request an administrative search warrant when the premises in question have not been inspected within the time period prescribed by ordinance, by administrative policy, or by rule, or when the premises have not previously been certified or no longer have a current certificate of compliance.
- E. In addition to the inspections required by § 17-12B, an inspection may be authorized on one or more of the following bases:
- (1) An area basis, such that all the regulated premises in a predetermined geographical area will be inspected simultaneously or within a short period of time.
  - (2) A complaint basis, such that complaints of violations will be inspected within a reasonable time.
  - (3) A recurrent violation basis, such that those premises which are found to have a high incidence of recurrent or uncorrected violations will be inspected more frequently.
- F. Inspections under this section shall be carried out by the City and may include such representatives of other agencies as may form an inspection team to undertake an inspection under this chapter and other applicable ordinances.
- G. In a nonemergency situation in which the owner or occupant demands a search warrant, the City shall obtain a warrant from a court of competent jurisdiction. The occupant shall have the exclusive right to demand a search warrant for an inspection of any dwelling unit. The warrant shall state the address of the building to be inspected, the nature of the inspection, as defined in this chapter or other applicable ordinances, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g., mandatory periodic inspection, complaint, area or recurrent violation basis) established in this section, in other applicable statutes or ordinances or in rules or regulations. The warrant shall also state that it is issued pursuant to authority granted by this chapter and by the authority of § 127 of Public Act 167 of 1917, as amended (MCLA § 125.527), and that it is for the purposes set forth for the inspection of rental property by state statutes and City ordinances. The owner and/or responsible local agent shall be responsible for providing access whenever a search warrant is issued pursuant to the provisions of this chapter.
- H. The City may establish and charge a reasonable fee for inspections conducted under this chapter. All such fees shall be approved by a resolution adopted by the City Commission.

**§ 17-12.1. Systematic inspection procedures.**

- § 17-12.1
- § 17-12.1
- A. It is the policy of the City of Kalamazoo that its staff will work cooperatively with landlords, tenants, neighborhood associations and other interested groups and individuals to help ensure safe, decent and sanitary rental housing through the systematic inspection of rental properties pursuant to the requirements prescribed by this chapter.
- B. The owner and/or responsible local agent shall contact the City to schedule the systematic inspection in a timely manner such that the certificate of compliance can be issued prior the expiration of the then-current certificate of compliance.
- C. It shall be the responsibility of the owner and/or responsible local agent to contact the City to schedule the systematic inspection required by this chapter.
- D. Once a date for an inspection is scheduled, the owner and/or responsible local agent shall do all of the following prior to the date of the scheduled inspection:
- (1) Inform the tenant or occupant of each dwelling unit scheduled for possible inspection of the date when the inspection is scheduled to occur.
  - (2) Request permission from the tenant or occupant of each dwelling unit scheduled for possible inspection to enter the rental unit in the event that the tenant or occupant is not at home when the inspector arrives.
  - (3) Inform the tenant or occupant of each dwelling unit scheduled for possible inspection that the owner or the owner's representative is required to accompany the inspector during the performance of all inspections of rental dwelling units, and that the owner or the owner's representative must provide access to the inspector by unlocking the dwelling unit's door in the event that the tenant is not at home.
- E. In all cases where a tenant or occupant has informed the owner or responsible local agent, either orally or in writing, that the inspector may have access to the dwelling unit, the owner shall provide access to the dwelling unit in question for purposes of conducting the inspection required by this chapter.
- F. If a tenant who has consented to the inspection informs the owner or responsible local agent that he or she would like to be present during the inspection, but that the time scheduled for the inspection is not convenient, the owner or responsible local agent shall inform the City of the tenant's desire to be present when the inspection occurs. The City shall make a reasonable effort to comply with the tenant's request. If the City, owner, and tenant cannot schedule a mutually convenient time for the inspection, the City shall have the discretion to seek a search warrant to inspect that dwelling unit pursuant to authority granted by this chapter and state law.
- G. If a tenant or occupant of a unit scheduled for possible inspection informs the owner or responsible local agent that he or she will demand that the City obtain a search warrant, the owner or responsible local agent shall inform the tenant that the owner or responsible local agent is required by City code to accompany the inspector during the execution of a search warrant, and is required to provide access to any dwelling unit when a proper search warrant has been issued by a court of competent jurisdiction. If a search warrant is issued at the request of a tenant, the City shall make a reasonable effort to inform the tenant of the date of execution of the search warrant.
- H. In all cases where a court of competent jurisdiction has entered a search warrant authorizing the inspection of a particular dwelling pursuant to MCLA § 125.527 and the provisions of this chapter, the owner or responsible local agent shall accompany the inspector during the execution of the search warrant and inspection of the named dwelling units, and shall provide access to each dwelling unit described in that search warrant.
- I. The City may require the owner of a leasehold to do one or more of the following:
- (1) Provide the City access to the leasehold if the lease provides the owner a right of entry.
  - (2) Provide access to areas other than a leasehold or areas open to public view, or both.

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(3) Provide access to the leasehold if a tenant of that leasehold has made a complaint to the City.

- J. Neither the City nor the owner may discriminate against an occupant on the basis of whether the occupant requests, permits, or refuses entry to the leasehold. An owner of a multiple dwelling shall not discriminate against any person whose dwelling unit is randomly selected for inspection by the City, nor shall any owner bill the cost of the inspection to tenants or other occupants of a property which is inspected under the provisions of this chapter.
- K. The City shall not discriminate against an owner who has met the requirements of Subsection I but has been unable to obtain the permission of the tenant or occupant, based on the owner's inability to obtain the permission.

**§ 17-12.2. Inspection of Neighborhood Enterprise Zone properties prior to sale.**

- A. In accordance with the requirements of Act 147 of the Public Acts of 1992, as amended, before the sale of a unit within a new facility or rehabilitated facility, or the sale of any new or rehabilitated facility as a whole, for which a Neighborhood Enterprise Zone certificate is in effect, an inspection of such unit or facility shall be made by the City upon the request of the seller to determine compliance with all local and all applicable state construction and safety codes.
- B. No sale of a unit within a new facility or rehabilitated facility, or the sale of any new or rehabilitated facility as a whole, for which a Neighborhood Enterprise Zone certificate is in effect shall be finalized until a certificate attesting that the unit or facility complies with all local and all applicable state construction and safety codes has been issued.
- C. The City Commission shall by resolution set a fee for the inspection and the issuance of a certificate of compliance required by this section.
- D. As used in this section, the terms "new facility" and "rehabilitated facility" shall have the same meanings as set forth in PA 147 of 1992, as amended, being MCLA § 207.772. As used in this section, the term "unit" includes a "condominium unit" as that term is defined in PA 147 of 1992, as amended.

**§ 17-13. (Reserved)**

**§ 17-14. Fees for actions taken under Chapter 17.**

- A. The City Commission may, by resolution, establish reasonable fees for covering the costs of actions taken under Chapter 17 of the City Code of Ordinances.
- B. The City shall provide a written invoice of the fees to the owner of the property against which action was taken by the City. Payment is due within 30 days from the date of the invoice. If the invoice is not paid, the City shall notify the City Assessor's Office, who will assess the unpaid amount against that property. The City may enforce the lien by placing the unpaid amount on the next tax roll of the City, the collection of which is enforceable in the same manner as delinquent taxes.
- C. The City also has the option to file a complaint in the appropriate court in Kalamazoo County to recoup any unpaid balance owing on the invoice. Interest shall accrue as provided for delinquent taxes and judgments by law.

**§ 17-15. Registration of hotels, rental dwellings, residential collectives, residential cooperatives, bed-and-breakfast inns, and rooming houses.**

The owner of any hotel, any rental dwelling, or of any residential collective, residential cooperative, bed-and-breakfast inn, or rooming house, shall register it with the City and shall designate a person, as defined in § 17-17, as the responsible local agent who shall be legally responsible for compliance with the City Code and shall also

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be responsible for providing access to such property for the purpose of making the inspections necessary to ensure such compliance in conformance with applicable provisions of this chapter and state law. § 17-20

**§ 17-16. Registration forms.**

An application for registration shall be made in such form and in accordance with such instructions as may be provided by the City. No application for registration shall be valid unless it is filled out completely. If any information on a rental registration submitted to the City about the owner or responsible local agent changes, it shall become invalid until a new registration form is submitted.

**§ 17-17. Responsible local agent.**

An owner of premises covered under this chapter shall designate a responsible local agent as a party responsible for operating such premises in compliance with all the provisions of the City Code. The responsible local agent shall be a person or representative of a corporation, partnership, firm, joint venture, trust, association, organization or other entity having his/her place of residence in the County of Kalamazoo, or having his/her place of residence in the approved zip codes (as determined by the City). All official notices of the City may be served on the responsible local agent, and any notice so served is considered to have been served upon the owner of record.

**§ 17-18. Transfer of ownership; transfer of noncomplying properties.**

- A. Upon any transfer of ownership, any registration issued under this chapter shall become invalid. Any new owner shall comply with the provisions of §§ 17-15 and 17-16 and shall register the property within 10 days of the date of the transfer of ownership. The validity and expiration date of a certificate of compliance shall not be affected by a transfer of ownership.
- B. The City will hold the purchaser of any hotel, rental dwelling, rooming house or other dwelling regulated by this chapter responsible for any compliance order issued for the property, even though such order may have been issued to the previous owner. Any new purchaser may obtain a copy of any outstanding compliance order at the City of Kalamazoo. Enforcement for failure to comply with any outstanding orders may be transferred to a new owner without additional notice.

**§ 17-19. Certificates of compliance for hotels, rooming houses, multiple dwellings, rental dwellings and residential collectives.**

- A. No person shall operate, lease, rent, occupy, or allow occupancy of a hotel, including a bed-and-breakfast inn, rooming house, multiple dwelling, residential cooperative, residential collective or any rental dwelling, including single-family homes and duplexes, unless there is a valid certificate of compliance issued by the City in the name of the agent and issued for the specific hotel, rooming house, multiple dwelling, residential cooperative, residential collective or rental dwelling. The certificate of compliance shall be displayed in a conspicuous place in each hotel, rooming house, and bed-and-breakfast inn at all times. The certificate shall be issued in conformance with such rules as the City Manager or his or her designee shall promulgate after registration with the City and following inspection and shall state that the property is in compliance with the provisions of the Code and state law.
- B. The City shall not issue a certificate of compliance unless a current registration is in effect, the responsible local agent is properly designated, and an inspection, as required elsewhere in this chapter, has determined that the premises satisfies the minimum standards and other provisions of the City Code of Ordinances.

**§ 17-20. Revocation or denial of certificate of compliance.**

- A. Whenever the City finds that the operator of any rental dwelling, rooming house, bed-and-breakfast inn, residential collective, or hotel has failed to comply with a notice of violation issued pursuant to § 17-13 of this Code,<sup>82</sup> the certificate of compliance may be revoked.

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B. No person whose registration to rent or lease a dwelling regulated by this chapter has been denied or whose certificate of compliance has been revoked shall permit occupancy of the premises until the City has approved the registration of the dwelling and issued a certificate of compliance.

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C. Upon revocation of a certificate of compliance or a determination by the City that any dwelling unit or structure regulated by this chapter is unfit for human habitation, the owner or operator of such unit or structure shall immediately take appropriate legal action to vacate the premises, including eviction proceedings. No person shall thereafter occupy the dwelling unit or structure for sleeping or living purposes until the City determines it complies with this Code. All vacant buildings shall remain closed to casual entry as required in Chapter 9 of the City Code of Ordinances.

**§ 17-21. Civil remedies for violations.**

A. The City may institute an action in the circuit court to prevent, restrain, correct or abate, without limitation, any one of the following violations or unlawful acts:

- (1) The construction, alteration, conversion or maintenance of a dwelling, including accessory structure, contrary to this chapter or an order or notice given by the City.
- (2) When the violation or act is considered to have created a nuisance.
- (3) Under circumstances where the health, safety and welfare of any occupant on the premises or any nearby structure is at risk.

B. The procedure for such action shall be the same as for any injunction or abatement of a nuisance under Michigan court rules, statutes or the common law. The remedies the City may seek in the judgment or order entered by the court include without limitation:

- (1) Direct the correction, repair or rehabilitation of the dwelling or building.
- (2) Abate the nuisance.
- (3) Prevent the occupation of the dwelling, building or structure until the violation or nuisance is corrected or abated.
- (4) Enjoin or restrain the use, occupancy or action/omission that lead to the lawsuit from continuing until corrected, abated or ceased.
- (5) Authorize the City to execute and carry out the provisions of the judgment or order in case of default by the defendant, including failure to comply within the reasonable time provided.

C. Whenever the City has incurred any expense for the enforcement of this chapter or the judgment or order of the court, the City may institute and maintain a suit against the owner of the premises to recover such expense in addition to the costs of suit. The City shall have a lien upon the premises for the expenses necessarily incurred in the execution of any judgment or order entered by the court under above Subsections A and B. The lien shall have priority over all other liens or encumbrances, except taxes, assessments or mortgages recorded previous to the existence of such lien. The City may enforce the lien in the same manner as delinquent real estate taxes or foreclosure of mortgages under state law.

D. In any action instituted by the City under this section, the City Attorney shall file, in the office of the register of deeds of the county, a notice of the pendency of the action or proceeding. The filing of the notice may occur when the action or proceeding is commenced; before or after final judgment or order is entered; or at any time after the service of the notice is made upon a defendant. The notice shall have the same force and effect as a lis pendens under state law. The Register of Deeds shall record it and shall index it to the name of

§ 17-21 each person specified in directions prescribed by the City Attorney. Any notice may be vacated upon the order of the judge of the court in which the action or proceeding was instituted or is pending, or upon written consent of the City Attorney. Such vacated notice shall be filed with the Register of Deeds. § 17-23

**§ 17-22. Responsibility for violations; procedures.**

- A. Any person who causes, permits, allows or maintains a condition on or in any premises in violation of a criminal provision of this chapter shall be deemed guilty of a misdemeanor. A person who violates a section of this chapter which provides for civil penalties shall be deemed responsible for a municipal civil infraction. Each week that a violation exists shall constitute a separate offense.
- B. Any person who causes, maintains, permits or allows a nuisance on or in any premises shall be deemed guilty of a misdemeanor, unless the condition is specifically deemed a civil violation.
- C. Whenever the Building Official determines that there has been a violation of any provision of this chapter, or any adopted rule or regulation, the City may give notice of the violation to the person responsible for it and order the correction of the violation. Such notice shall:
  - (1) Be in writing.
  - (2) Include a statement of the conditions that constitute violations of this chapter.
  - (3) Specify that a permit for the performance of the work necessary to correct such violations must be obtained if one is required by the City Code.
  - (4) Notify the owner, agent or occupant, as the case may require, of the time within which the violation shall be corrected. If the work cannot be completed within the time specified or for any other reason, the owner may appeal to the Building Board of Appeals as set forth in Article II of this chapter.
  - (5) Be served upon the owner, agent or occupant as the case may require. Such notice is considered properly served upon an owner, agent or occupant if a copy of the notice is provided under any of the following: personally served; mailed certified or first class with prepaid postage to his/her last known address according to City records; posted in a conspicuous place on the dwelling affected by the notice; or any other method authorized or required under the laws of this state. The time for performance shall commence on the date service was made, posted, mailed or otherwise authorized depending upon the method of service used.
- D. Whenever any inspector finds that a violation of this chapter creates a situation that requires immediate action to protect the public health and safety, he/she shall bring the matter to the attention of the Building Official. If the Building Official agrees with the inspector, the Building Official shall, without notice or hearing, issue an order stating that an emergency exists and requiring that the person to whom such order is directed take immediate action as the Building Official considers necessary and appropriate to meet the emergency. Regardless of the other provisions of this chapter to the contrary, such order is effective immediately.
- E. Prosecutions for criminal or civil violations of this chapter may be commenced by issuing an appearance ticket or citation without prior notice.

**§ 17-23. Minimum fines.**

- A. For violations of this chapter that are considered municipal civil infractions, the minimum fine for a first offense is \$150. If the defendant is responsible for a second civil infraction regarding the same property as a prior violation, committed within two years of the prior violation, then the minimum fine is \$250.
- B. For violations of this chapter that are considered misdemeanors, the minimum fine for a first offense is \$200. If the defendant is responsible for a misdemeanor offense regarding the same property as a prior offense, committed within two years of the prior offense, then the minimum fine is \$300.

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C. Any person who commits a third or subsequent violation of this chapter, all of which occur within three years, § 17-25  
regardless whether a misdemeanor or civil infraction and regardless of the property addresses where the  
violations occurred, is considered a chronic offender and shall be assessed a minimum fine of \$500, plus any  
additional sanctions under § 17-24.

**§ 17-24. Penalties.**

- A. In addition to any fines required by § 17-23, the sentence for a person convicted of a violation of this chapter which is designated as a misdemeanor may include a term of probation to correct any violation of this chapter in existence at the time of the last inspection at the subject property or properties. For chronic offenders, the court shall place that person on probation. Any probation ordered shall continue until the subject property is in full compliance with all provisions of this chapter, and shall set a reasonable deadline considering appropriate circumstances for compliance. If the court finds by a preponderance of the evidence that the defendant has not complied with an order to repair the subject property, it shall order the defendant held in contempt and may order additional sanctions, including the sale of his or her interest in the subject property or properties under such terms and conditions as the court directs.
- B. In addition to any fine required by § 17-23, a judge or magistrate who finds a person responsible for a violation of this chapter which is designated as a municipal civil infraction shall order that person to bring the subject property into full compliance with all provisions of this chapter within a reasonable deadline under appropriate circumstances. If the court finds by a preponderance of the evidence that the defendant has not complied with an order to repair the subject property, it shall order the defendant held in contempt and may order additional sanctions, including the sale of his or her interest in the subject property or properties under such terms and conditions as the court directs.

**§ 17-25. through § 17-26. (Reserved)**



ARTICLE II  
**Building Board of Appeals**

**§ 17-27. Established; composition; appointment and qualifications of members.**

A Building Board of Appeals is established pursuant to Chapter 9, Article VII.

**§ 17-28. through § 17-31. (Reserved)**

**§ 17-32. General powers and duties.**

- A. The Board shall act as an advisory committee to the City Commission and shall, in addition to the duties prescribed in Chapter 9, have these additional powers and duties:
- (1) Hear and decide appeals from and review any order, requirement, decision or determination made by officials charged with the enforcement of this chapter, except that the Board shall not have the authority to hear any matter pending in any court, to review decisions to inspect any property, or to review the terms of any certificate of compliance. All decisions of the Board shall be subject to review as provided by law.
  - (2) Where the literal application of specific provisions of this chapter would result in an exceptional practical difficulty to the applicant, the Board shall have the power, in passing upon appeals, to modify a specific provision of this chapter, provided both of the following requirements are satisfied:
    - (a) The performance of the particular part or item of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by this chapter for the safety and welfare of the people of the City.
    - (b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of this chapter with respect to the condition reasonably desirable.
  - (3) The Building Board of Appeals may attach in writing any stipulations in connection with granting of a variance that, in its judgment, are necessary to protect public health, safety, and the general welfare of the people of the City. The breach of those stipulations shall automatically invalidate the variance and any certificate granted on the basis of it. In no case shall more than a minimum variance from this chapter be granted than is necessary to alleviate the exceptional practical difficulty.

**§ 17-33. (Reserved)**

**§ 17-34. Appeals to Board.**

- A. Appeals from rulings of any official charged with the enforcement of this chapter may be made to the Board within such time as shall be prescribed by the Board or by this chapter. The appellant shall file, with the official from whose decision the appeal is taken and with the Board, a notice of appeal, specifying the grounds in support of the appeal; an alternate method to achieve the performance required by this chapter; and the mailing address of the appellant, if other than the address of the subject property. The official from whom the appeal is taken shall promptly transmit to the Board a summary report of all previous action taken, and a recommendation as to the adequacy of the proposed alternative.
- B. The Board shall fix a reasonable time for the hearing of an appeal under this section and give due notice to interested parties. The Board shall render a decision within a reasonable time after the hearing. The Board may reverse, modify or affirm, in whole or in part, the order, requirement, decision or determination which is the basis for the appeal, and to that end shall have all the powers of the official from whom the appeal is taken. The final disposition of such appeal shall be in writing and shall state the specific conditions justifying the variance, along with all conditions imposed in granting the variance. Such disposition shall be filed with the

§ 17-34 permanent property record and shall be forthwith mailed to the address given as part of the notice of appeal. § 17-37

**§ 17-35. Requests for interpretation of chapter, approval of materials, etc.**

Any person may file with the Board requests for the interpretation of the provisions of this chapter as provided by § 17-32A(1), or for the approval of alternate methods or materials, in the same manner as provided by § 17-34.

**§ 17-36. Finality of decisions.**

Any quasi-judicial decision by the Board under § 9-31 or § 17-35 shall be subject to review, as provided by applicable law, in the Kalamazoo County Circuit Court or such other court as may be appropriate.

**§ 17-37. through § 17-47. (Reserved)**

ARTICLE III  
**Property Maintenance Standards**

**§ 17-48. Adoption of standards.**

The standards within the International Property Maintenance Code (IPMC), current edition, as published by the International Code Council, are hereby adopted as the residential property maintenance standards of Chapter 17, Housing Code, for the City of Kalamazoo. Specifically the following sections contain the adopted standards:

IPMC, Chapter 2 - Definitions

IPMC, Chapter 3 - General Requirements

IPMC, Chapter 4 - Light, Ventilation and Occupancy Limitations

IPMC, Chapter 5 - Plumbing Facilities and Fixture Requirements

IPMC, Chapter 6 - Mechanical and Electrical Requirements

IPMC, Chapter 7 - Fire Safety Requirements

IPMC, Chapter 8 - Referenced Standards

Additional requirements are listed in § 17-48A and B, and deletions are listed in § 17-48C, below.

A. Additional requirements applicable to residential property.

- (1) Fire extinguishers. Portable fire extinguishers are required in all dwelling units, condominiums, hotels, motels, fraternity houses, sorority houses, group homes, all guestrooms in rooming houses (for threshold of rooming house occupancy, see the Building Code), and any other type of residential occupancy as defined by this Code and the Uniform Fire Code. They shall be installed within individual dwelling units. They shall be at least IAIOBC type and installed in a path of egress where they are easily visible, accessible and permanently mounted on a wall. All extinguishers shall be maintained in an operable condition. Locations approved prior to the adoption of this amendment, including mounting within labeled closets or cupboards, will be allowed to remain until the extinguisher needs replacement. Fire extinguishers within residential dwelling units must be replaced every three years, or per the manufacturer's recommendation. If there is no manufacture date on the fire extinguisher, it shall be dated upon installation by the owner with a permanent marker. All questions on fire extinguisher placement within a dwelling unit, or on the replacement schedule, shall be the final decision of the Building Official and/or Fire Marshal.
- (2) Security. The following security measures are required:
  - (a) Door viewers. Doors from a dwelling unit to a common hallway or directly to the exterior, or from a rooming unit within a rooming house (for threshold of rooming house occupancy, see the Building Code), shall be equipped with a door viewer when there is no other means of visibility through or by the door or from a clear window or clear side light window immediately adjacent to the door. The viewer shall be installed with the securing portion on the inside and nonremovable from the outside. The viewer shall not be over five feet from the floor.
  - (b) Common entrance doors. Doors from a common area to the exterior shall be equipped at a minimum with a lockable latch set with a dead latch which can always be released from the interior by turning the knob and from the exterior by a key. The hardware set shall have an exterior knob which always requires the use of a key to be activated for entrance. Hardware sets with this function are commonly referred to as storeroom, vestibule or emergency lock sets. Such doors shall also be equipped with an automatic closer. Exception: Dwellings of five units or less do not require an automatic door closer.

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- (c) Hinges. Out-swing dwelling unit exit doors shall be equipped with hinges from which hinge pins cannot be removed or equipped with special jamb pins which prevent the door from being removed if hinge pins are removed while the door is in a closed position. Such doors shall also be equipped with a plate at the bolt-strike area which prevents prying at this point.
  - (d) Patio door secondary locks. Sliding patio doors shall be equipped with a permanently attached secondary locking device to supplement the standard jamb latch if the patio door is on the ground floor or accessible by exterior stairs or on a shared porch/deck area.
  - (e) Security lighting. There shall be an outside light source that illuminates every ground level exterior exit door. When the door serves more than one dwelling unit, the control of the light shall be motion detector/photocell/timer. When the door serves only one dwelling unit, the control shall be by a wall switch located near the interior of the door. If the door opens onto a deck or porch, the area lighting the deck or porch may serve to meet this requirement. Solar lighting may be utilized when designed/intended for such a use and is UL listed for such a use. Private balconies and patios, not accessible from the exterior or from an adjacent unit, are exempt.
  - (f) Window locks. All operable sashes on the first three floors of any residential building, or so located on any floor such that they can be reached from an adjoining roof, fire escape or similar projection, shall have locks or pins for when the window is in a closed position. Basement windows over eight inches by 12 inches in size shall have locks or be permanently secured.
  - (g) Security grilles. Security guards and grilles installed over a window shall be equipped with a quick-release mechanism operable from within the room to allow escape through the window in case of fire.
  - (h) Basement window boarding. Basement windows may be removed and the openings closed with weather-resistant plywood, one-half-inch minimum thickness, securely anchored to surrounding construction, and weather-protected with a paint or coating recommended by the manufacturer for exterior use. As an alternative, basement window openings may be closed with masonry or a glass block. For impact on habitability of the basement, see §§ 17-51 and 17-107.<sup>83</sup>
  - (i) Prohibited locks. Hasplocks and padlocks shall not be used in any areas occupied by residents.
- (3) Kitchen flooring. Kitchens must have a floor covering which is cleanable, water resistant, odor free and stain resistant. Permanently installed floor covering in a kitchen shall not be carpet. Kitchens which have carpeting as of September 1, 2005, which is in good repair and clean may keep such carpet until such time as it becomes worn, stained or ripped to the extent that it requires replacement.
  - (4) Electrical requirement for habitable spaces.
    - (a) All habitable rooms shall be equipped with two duplex electrical outlets and one ceiling or wall light fixture or three duplex outlets. The duplex outlets shall be separate and remote from one another. A required duplex outlet shall not be part of a light fixture. All light control switches shall be conveniently located.
    - (b) Three-way switching is required in hallways and stairways when leading to habitable spaces.
  - (5) Basement storage. Items to be stored in a basement, which are subject to moisture damage, shall be stored in proper containers or off the floor. Access to all equipment must be maintained, and the general area shall be regularly inspected and treated, if necessary, for rodents and insects.
  - (6) Infestation.

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83. Editor's Note: So in original.

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- (a) Whenever infestation of insects, rodents or other pests exists in any duplex or multiunit building or in the shared or public parts of any building or in the common areas of any building, extermination thereof shall be the responsibility of the owner.
- (b) In a single-family dwelling, whenever infestation of insects, rodents or other pests exists, and the occupant has resided in the unit less than 30 days, extermination thereof shall be the responsibility of the owner.
- (c) In a single-family dwelling, whenever infestation of insects, rodents or other pests exists, and the occupant has resided in the unit more than 30 days, extermination thereof shall be the responsibility of the tenant. However, any physical improvement(s) which may be necessary to prohibit the entry of pests is the responsibility of the owner.

- (7) Doors. Doors that are not operational shall be removed and the area remodeled to match or complement adjacent wall surfaces on the interior and exterior.
- (8) Screens. Screens are required in all operable windows in rental property between April 15 and October 31 each year. Doors serving as required ventilation for any room shall also be equipped with a screen between April 15 and October 31 each year.

B. Additional property standard requirements applicable to all residential properties.

- (1) Accessory structures. Accessory structures, including, but not limited to, detached garages, detached carports, storage sheds and gazebos, shall be structurally sound and in good repair. Doors and windows shall be in good repair and free from deterioration.

(2) Storage.

- (a) Open accessory structures, including carports, gazebos, decks, lean-tos, open sheds, etc., shall not be used for storage of household items. A reasonable amount of yard maintenance equipment is permitted. Attached and detached garages or storage sheds with no doors will be considered carports.
- (b) Building materials which are being used for ongoing construction on the site shall be stored in an accessory structure. In the absence of such a structure, materials shall be stacked neatly behind the building so as not to be seen from the street. Long-term outdoor storage of construction materials is not permitted.
- (c) In no instance shall upholstered furniture, carpeting, mattresses, box springs, clothing or any such fabric items be stored in yards or yard enclosures where they are subject to weather deterioration.
- (d) Illegal outdoor storage may be subject to separate citation under Chapter 22, Nuisances, of the City of Kalamazoo Code of Ordinances.<sup>84</sup>

(3) Site maintenance.

- (a) Parking areas and drives on the site shall be properly graded and shall be covered with a surface treatment which resists standing water and mud formation; acceptable materials shall include concrete, asphalt, stabilized gravel or similar material; and said parking areas and drives shall be in compliance with the Zoning Code, if applicable. All driveways and vehicle turnaround areas shall have clearly defined boundaries. A clearly defined boundary shall mean, at a minimum, the existence of a distinct edge so the material used to pave or cover the parking area, or barriers, such that the driveway where parking is permitted is clearly distinguished from the yard area where parking is not permitted. Other yard areas shall be covered with grass, a ground-cover plant or

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84. Editor's Note: So in original. Provisions regarding nuisances are discussed in Chapter 22, Offenses and Crimes Generally.

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other nonplant landscaping material that will prevent the formation of dust and mud.

(b) Shrubs, trees and other similar plantings shall be trimmed or otherwise treated to prevent their overlapping into public walks and rights-of-way and obstructing the view of sidewalks and streets at entrances to driveways serving the property.

(c) Vegetation growing such that it is causing deterioration of the building or creating channels for water seepage shall be removed.

(4) Historic district compliance. Properties located in an historic district must comply with all applicable regulations.

C. Deleted requirements. The following sections of the IPMC are not applicable:

(1) Section 302.4 Weeds. (See Chapter 22, Nuisances, for regulations.<sup>85</sup>)

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85. Editor's Note: So in original. Provisions regarding weeds are discussed in Chapter 22, Offenses and Crimes Generally.

**Chapter 18**

**NONDISCRIMINATION**





§ 17-48

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 9-8-2020 by Ord. No. 2013.<sup>86</sup> § 17-48  
Amendments noted where applicable.]**

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**86. Editor's Note: This ordinance superseded former Ch. 18, Community Relations; Discrimination, which consisted of Art. I, Community Relations Advisory Board, adopted 9-12-1977 by Ord. No. 1123, as amended; and Art. II, Discrimination Prohibited, derived from Adm. Code §§ A228.1 through A228.10, as amended.**



ARTICLE I  
**General Provisions**

**§ 18-1. Policy.**

- A. It is the intent of the City of Kalamazoo that no person be denied the equal protection of the laws; nor shall any person be denied the enjoyment of their civil rights.
- B. The prohibitions against discrimination provided for in this chapter do not preempt federal or state law, but are intended to supplement existing state and federal civil rights law to prohibit discrimination in the areas of employment, public accommodations, and housing not addressed at state or federal law, especially in regards to actions taken because of an individual's source of income, status as a victim of domestic violence, prior arrests, or conviction record; provided, however, this chapter shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.

**§ 18-2. Definitions.**

As used in this chapter, the following words and phrases have the following meanings:

AGE — Chronological age.

ARREST RECORD — Information indicating that a person has been apprehended, detained, taken into custody, held for investigation, or restrained by a law enforcement department or military authority due to an accusation or suspicion that the person committed a crime. Arrest record includes pending criminal charges, where the accusation has not yet resulted in a final judgment, acquittal, conviction, plea, dismissal, or withdrawal of charges.

CITY MANAGER — The City Manager of the City of Kalamazoo or his or her designee.

CONTRACTOR — A person who by contract furnishes services, materials or supplies to the City. "Contractor" does not include persons who are merely creditors or debtors of the City, such as those holding the City's notes or bonds or persons whose notes, bonds or stock is held by the City.

CONVICTION RECORD — Information regarding the history of criminal convictions of an individual in any jurisdiction, including time served in prison, jail, juvenile detention, probation, parole, rehabilitation or diversion programs, and placement on a sex offender registry.

DISABILITY — A determinable physical or mental characteristic resulting from disease, injury, congenital condition of birth, or functional disorder and is unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; or unrelated to one's ability to acquire, rent and maintain property; or unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Disability" does not include any condition caused by the current illegal use of a controlled substance, the use of alcoholic liquor, or use of marijuana by an individual.

DISCRIMINATE — To make a decision, offer to make a decision, or refrain from making a decision based in whole or in part on an individual's actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation or gender identity, educational affiliation, source of income, status as a victim of domestic violence, governmental identification method, arrest record and conviction record (collectively "protected classes").

- A. Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:
- (1) Submission to such conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment, public accommodations, or housing.
  - (2) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or housing.

§ 18-2 (3) Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, or housing environment. § 18-2

- B. Discrimination based on sex includes discrimination based on an actual or perceived sexual orientation or gender identity of an individual.
- C. Discrimination based on actual or perceived physical or mental limitation includes discrimination because of the use by an individual of adaptive devices or aids.
- D. Discrimination also includes the use of facially neutral policies or practices that have a disparate impact on members of a protected class.
- E. Discrimination also includes conduct directed at another based on their membership in a protected class which creates an intimidating, hostile or offensive environment regarding employment, public accommodation or housing.

**EDUCATIONAL AFFILIATION** — The fact of being enrolled, or not enrolled, in any educational institution.

**EMPLOYER** — Any person employing one or more individuals engaged in a lawful business or enterprise but does not include the employment of an individual by his or her parent, sibling, spouse, or child.

**EMPLOYMENT AGENCY** — A person who undertakes to procure employees for an employer or procures opportunities for individuals to be employed by an employer.

**FAMILY STATUS** —

- A. An individual who is pregnant; or
- B. One or more individuals under the age of 18 residing with a parent or other person having custody or in the process of securing legal custody of the individual or individuals or residing with the designee of the parent or other person having or securing custody, with the written permission of the parent or other person.

**GENDER IDENTITY** — A person's actual or perceived gender, including a person's self-image, appearance, expression, or behavior, whether or not that self-image, appearance, expression, or behavior is different from that traditionally associated with the person's sex as assigned at birth as being either female or male.

**GOVERNMENTAL IDENTIFICATION METHOD** — The legal form of identification that an individual may use, including any valid, government-issued identification, such as a state ID card, federal immigration documentation, municipal or county ID card, or passport issued by a foreign country.

**INDIVIDUAL** — A human being, as distinguished from a person, as defined herein.

**LABOR ORGANIZATION** — An organization of any kind or structure in which employees participate or are members and which exists for the purposes, in whole or part, of dealing with employers concerning the terms and conditions of employment of its participants or members, whether or not such organization is subordinate to or affiliated with a national or international labor organization.

**MARITAL STATUS** — The state of being married, single, widowed, divorced, or separated.

**PERCEIVED** — Refers to the perception of the person who acts, and not to the perception of the person for or against whom the action is taken.

**PERSON** — An individual, association, partnership, agency, organization, or corporation, public or private, including the employees, members and officers thereof.

**PLACE OF PUBLIC ACCOMMODATION** — An educational, governmental, health, entertainment, cultural, recreational, refreshment, transportation, or financial institution, business or facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

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RELIGIOUS ORGANIZATION — An organization, church, group, or body of communicants that is organized not for pecuniary profit that regularly gathers for worship and religious purposes and also includes a religious-based private school that is not organized for pecuniary profit.

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RETALIATION — An adverse action taken against an individual who files or participates in a complaint investigation under this chapter.

SEXUAL ORIENTATION — Male or female homosexuality, heterosexuality, bisexuality, or asexuality, whether by orientation or practice. Sexual orientation does not include the physical or sexual attraction to a minor by an adult.



ARTICLE II  
**Conduct Prohibited**

**§ 18-3. Discriminatory public accommodation practices.**

- A. Except as otherwise provided in this chapter, no person shall discriminate in making available full and equal access to all goods, services, activities, privileges, and accommodations of any place of public accommodation.
- B. Public accommodations must be made accessible to individuals with disabilities in compliance with state and federal law and regulations.
- C. Nothing in this chapter permits or requires access to any place of public accommodation for the purpose or intent of engaging in criminal conduct, offensive or disorderly conduct, or conduct which represents a threat to the public health, safety, or welfare.
- D. Nothing in this chapter requires the construction or provision of unisex, single-user restrooms, changing rooms, locker rooms, or shower facilities.

**§ 18-4. Discriminatory employment practices.**

Except as otherwise provided in this chapter:

- A. No employer shall discriminate in the employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any person.
- B. No labor organization shall discriminate in limiting membership, conditions of membership, or termination of membership of any person in any labor union or apprenticeship program.
- C. No employment agency shall discriminate in the procurement or recruitment of any person for possible employment with an employer.

**§ 18-5. Nondiscrimination by City contractors.**

- A. All contractors proposing to do business with the City of Kalamazoo shall satisfy the nondiscrimination administrative policy adopted by the City Manager in accordance with the guidelines of this section.
- B. A contractor shall, as a condition of being deemed a responsible bidder, at the time of its submission to the City in responding to an invitation for bids or request for proposals, certify in writing that it complies with the provisions of this chapter.
- C. All City contracts shall provide that breach of the obligation not to discriminate is a material breach of the contract. The contractor shall be liable for any costs or expenses incurred by the City in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the contract.

**§ 18-6. Discriminatory effects.**

No person shall adopt, enforce or employ any policy, practice, or requirement which has the effect of creating unequal opportunities according to actual or perceived race, color, religion, national origin, sex, age, height, weight, family status, marital status, physical or mental disability, educational association, source of income, status as a survivor of domestic violence, governmental identification method, arrest record, or conviction history for a person to obtain employment, public accommodation, or housing, except for a bona fide business necessity. Such a bona fide business necessity does not arise due to a mere inconvenience or because of suspected or actual objection to such a person by neighbors, customers, or other persons but shall require a demonstration that the policy or requirement is reasonably necessary to the normal operation of the person's business.

**§ 18-7. Other prohibited practices.**

- A. No person shall adopt, enforce or employ any policy or requirement, or publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing employment, public accommodations, or housing.
- B. No person shall discriminate in the publication or distribution of advertising material, information or solicitation regarding housing, employment or public accommodations.
- C. No agent, broker, labor organization, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to employment, public accommodations, or housing. A report of the conviction of any such person for a violation of this chapter shall be made to the applicable licensing or regulatory agency for such person or business.
- D. No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this chapter, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.
- E. No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this chapter.
- F. No person shall use any arrest record history information other than convictions contained in a criminal record.

**§ 18-8. Exceptions.**

Notwithstanding anything contained in this chapter, the following practices shall not be violations of this chapter:

- A. To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities and women consistent with applicable state and federal law.
- B. To discriminate based on a person's age when such discrimination is mandated by state, federal, or local law.
- C. To refuse to enter into a contract with an unemancipated minor.
- D. To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.
- E. To refuse to admit persons under 18 years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.
- F. For an educational institution to limit the use of its facilities to those affiliated with such institution.
- G. For a religious organization to restrict employment opportunities for officers, religious instructors and clergy to individuals of that denomination. It is also permissible for a religious organization to restrict employment opportunities, educational facilities, and dormitories that are operated as a direct part of its religious activities to persons who are members of the denomination involved or who agree to conform to the moral tenets of that religious organization.
- H. To provide discounts on products or service to students, or on the basis of age.
- I. For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.
- J. To restrict participation in an instructional program, athletic event or on an athletic team on the basis of age, sex, height, or weight consistent with applicable state or federal laws and regulations.



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- K. To restrict membership in a private club that is not open to the public except to the extent that private clubs which permit members to invite guests on the premises are not exempted as it concerns a member's guest.
- L. To the use of marital status or family status limitations in a health or pension plan if such limitations conform to federal and state laws and regulations.
- M. To discriminate in the provision of housing when based on a person's conviction history when such discrimination is mandated by state or federal law.



ARTICLE III  
**Enforcement**

**§ 18-9. Complaint process; information and investigation.**

- A. Any person claiming to have been discriminated against in violation of this chapter or Chapter 18A, Fair Housing, must file a signed, written complaint with the City Manager or the designee of the City Manager setting forth the details, including the names of the parties involved, contact information for the complainant, dates, witnesses, and other factual matters relevant to the claim, within 91 days of the incident forming the basis of the complaint. Complaints not filed with the specified time frame will not be considered.
- B. The City Manager or the designee of the City Manager, with the assistance of the City Attorney or designee of the City Attorney, will review the complaint to determine its relevance to applicable City ordinances. Upon completion of the review, the complaint will be addressed through one of the following actions:
  - (1) Referral of the complaint to an appropriate state, federal or local authority for investigation. If referred to an external agency, the complainant will receive written notification of the referral by the City.
  - (2) Conduct an investigation of the complaint with the assistance of the City Attorney's Office and personnel from any other City departments.
  - (3) Dismiss the complaint, if after review with the City Attorney's office, the allegations do not constitute a violation of City ordinances.
- C. In the course of the investigation, the City Manager or the designee of the City Manager may request a person to produce books, papers, records or other documents which may be relevant to the complaint being investigated. If said person does not comply with such request, the City Attorney may issue subpoenas for the production of materials, and if necessary, apply to the Kalamazoo County Circuit Court for an order requiring production of said materials.
- D. No person shall provide false information to any authorized City employee investigating a complaint initiated under this section. Violation of this section is a misdemeanor.
- E. Action on the complaint will be completed within 91 days of receipt of the complaint, and the parties will be notified in writing if additional time is necessary.
- F. After the completion of an investigation, the City Manager shall give written notice of the results of the investigation to the Civil Rights Board, the person who filed the complaint, and the person accused of the violation. If the investigation establishes that a violation of City ordinances occurred, the City Manager or his/her designee may attempt to resolve the matter by a voluntary settlement agreement between the involved parties without legal action.

**§ 18-10. Voluntary settlement agreements.**

- A. Cases may be resolved by a voluntary settlement, agreed to by both parties, or by an administrative closure, if the request for settlement is withdrawn or a complaint is filed in court or with another administrative agency based on the same incident of discrimination.
- B. If the investigation establishes probable cause of discrimination, an offer to settle the matter will take place as soon as possible. The City may enter into enforceable agreements with a respondent to terminate the discriminatory conduct and reverse the effects of past discrimination.
- C. The respondent will be asked to 1) cease and desist from the specific discriminatory act or practice involved in the complaint, and 2) implement whatever actions and policies are necessary to remedy the discrimination uncovered in the investigation.

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D. Violations of voluntary settlement agreements are violations of this chapter, subjecting the respondent to prosecution and equitable action to enforce the agreement.

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**§ 18-11. Injunctions.**

The City Attorney may commence a civil action to obtain injunctive relief to prevent discrimination prohibited by this chapter, to reverse the effects of such discrimination or to enforce a voluntary settlement agreement.

**§ 18-12. Prosecution.**

- A. Prosecution for violation of this chapter may be initiated by complaint of the affected person on the basis of a violation of a voluntary settlement agreement or at the direction of the Civil Rights Board on the basis of an investigation undertaken by the City Manager.
- B. Violation of this chapter shall be prosecuted by the City Attorney as a municipal civil infraction pursuant to the provisions of the Revised Judicature Act of 1961, MCLA § 600.101 et seq.

**§ 18-13. Penalties.**

- A. A violation of any provision of this chapter is a municipal civil infraction punishable by a fine of not more than \$2,000, plus all costs of the action. The court may issue and enforce any judgment, writ, or order necessary to enforce this chapter. This may include reinstatement, payment of lost wages, hiring and promotion, sale, exchange, lease or sublease of real property, admission to a place of public accommodation, and other relief deemed appropriate.
- B. Each day upon which a violation occurs shall constitute a separate and new violation.
- C. A violation proved to exist on a particular day shall be presumed to exist on each subsequent day unless it is proved that the violation no longer exists.
- D. Nothing contained in this chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any person for the prevention or correction of discrimination.

ARTICLE IV  
**Civil Rights Board**

**§ 18-14. Civil Rights Board creation; composition.**

- A. To implement the general policy and purposes set forth in this chapter, the City Commission establishes a Civil Rights Board.
- B. The Civil Rights Board consists of seven voting members appointed by the Mayor and approved by the City Commission and two ex-officio members who shall have no vote, but who may otherwise fully participate in any meeting of the Board.
- C. Members appointed to the Board shall be residents of the City reflecting and representing the diversity of the Kalamazoo community and be able to demonstrate experience in civil rights, public accommodation, employment, disability or housing law. Members to the Board may be appointed who are not City residents, not to exceed two members, when there is a valid reason for such appointment, such as the member works in the City, or has special expertise to carry out the duties and responsibilities of the Board.

**§ 18-15. Appointment and terms of Board members; filling of vacancies; termination of appointments.**

- A. Except for the initial appointments, members of the Board are appointed for a term of three years. The initial appointments to the Board will consist of three members appointed for a three-year term, two members appointed for a two-year term and two members appointed for a one-year term. Members of the Board may serve up to two consecutive terms. Vacancies may be filled by the same appointment procedure for the remainder of an unexpired term.
- B. The ex officio Board members shall be appointed by the Mayor and approved by the City Commission. One member shall be a City Commissioner, and the other member shall be a City officer or employee, recommended by the City Manager, but who shall not be a City Commissioner or the City Manager.

**§ 18-16. Election of Board officers.**

The Board shall elect a Chairperson for a term of one year, with no limit on the number of terms a member may serve as Chairperson, to conduct its meetings and, as it may desire, elect a Vice Chairperson to act in the absence of the Chairperson, from its members. Rules for the conduct of Board meetings shall be stated in the bylaws, as determined by the Board and approved by the City Commission.

**§ 18-17. Secretary to Board; administrative support.**

The City Manager shall designate someone other than himself/herself to serve as Secretary to the Board and shall provide such administrative support as may be required.

**§ 18-18. Board subject to state law.**

Meetings of the Board shall be conducted in compliance with the Michigan Open Meetings Act, MCLA § 15.261 et seq., and its records shall be available to the public under the Michigan Freedom of Information Act, MCLA § 15.231 et seq.

**§ 18-19. Duties and responsibilities of Board.**

The Board shall exercise its authority, functions, powers, and duties in accordance with all ordinances, rules, regulations, orders, and the City Charter of the City of Kalamazoo. The authority, duties, and responsibilities of the Board shall include the following:

- A. Foster mutual understanding and respect among the people in the City and discourage and prevent unlawful

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discriminatory practices toward the protected classes described in this chapter.

- B. Review claims of discrimination brought by residents of the City of Kalamazoo and make recommendations for resolution following investigation of the claim by the City Manager or the designee of the City Manager.
- C. Review and analyze of conditions, practices, attitudes, policies, and other factors within Kalamazoo that contribute to discriminatory impact and further inequities, as well as evaluating the impact of antidiscrimination efforts.
- D. Make recommendations to the City Commission and City Manager on ways to improve City programs and ordinances to eliminate discrimination or remove effects of past discrimination.
- E. Engage in public awareness-building activities to ensure residents are informed of increased local protections and the role of the Board, including issuing an annual report of the activity of the Board.
- F. Engage with federal, state, and local agencies to assist in addressing issues of discrimination in the City.
- G. The Board shall provide an annual report to the City Commission regarding complaints received and actions taken.
- H. Establish bylaws and procedural rules for its meetings subject to approval by the City Commission.

**Chapter 18A**  
**FAIR HOUSING**





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**[HISTORY:<sup>87</sup> Adopted by the City Commission of the City of Kalamazoo 9-8-2020 by Ord. No. 2014.**

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**Amendments noted where applicable.]**

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87. Editor's Note: Editor's Note: Section 1 of Ord. No. 1494, adopted 5-7-1990, repealed former Ch. 18A, § 18A-1, which pertained to the Kalamazoo Center and originated from Ord. No. 1277, adopted 11-22-1982, as amended by Ord. No. 1283, adopted 3-21-1983.



ARTICLE I  
General Provisions

**§ 18A-1. Policy.**

- A. It is the policy of the City of Kalamazoo in the exercise of its municipal authority for the protection of the public health, safety, and general welfare that all residents be assured of an equal opportunity to live in adequate housing facilities and prohibit unlawful discriminatory practices in housing and real estate transactions.
- B. The prohibitions against discrimination provided for in this chapter do not preempt federal or state law, but are intended to supplement existing state and federal civil rights law to prohibit discrimination and practices in the area of housing not addressed at state or federal law, especially in regards to actions taken because of an individual's source of income, status as a victim of domestic violence, prior arrests, or conviction record; provided, however, this chapter shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.

**§ 18A-2. Definitions.**

- A. Any term used in this chapter shall have the definition as provided in Chapter 18, Nondiscrimination.

- B. As used in this chapter, the following words and phrases have the following meanings:

**ACTUAL EVICTION** — The completed legal process of a landlord removing a tenant from a rental property.

**ADVERSE ACTION** — To evict an individual, fail or refuse to rent or lease real property to an individual, or fail or refuse to continue to rent or lease real property to an individual, or fail or refuse to add a household member to an existing lease, or reduce any tenant subsidy. The adverse action must relate to property located in the City of Kalamazoo.

**AGENT** — A person acting on behalf of a housing facility entity.

**APPLICANT** — An individual applying to rent or lease a housing facility and an individual applying to be added to an existing housing facility lease.

**BLANKET POLICY** — A policy or practice that generally treats an individual as a member of group based on a particular characteristic as opposed to singularly.

**DIRECTLY RELATED CONVICTION** — The conduct for which the person was convicted or that is the subject of an unresolved arrest that has a direct and specific negative bearing on the health, safety, or right to peaceful enjoyment of the premises by persons, and includes one or more of the following offenses:

- (1) Any conviction where state or federal law prohibits the applicant from being eligible for public housing;  
or
- (2) Any conviction that leads to the applicant becoming a lifetime registered sex offender.

**EVICTION FILING** — A legal filing intended to start the process in which a landlord removes a tenant from a rental property.

**EVIDENCE OF REHABILITATION** — Includes, but is not limited to, a person's satisfactory compliance with all terms and conditions of parole or probation (however, an inability to pay fines, fees and restitution due to indigence shall not be considered regarding compliance with terms and conditions of parole or probation or both); employer recommendations, especially concerning a person's post-conviction employment; educational attainment or vocational or professional training since a conviction, including training received while incarcerated; completion or active participation in rehabilitative treatment, such as alcohol or drug treatment; letters of recommendation from community organizations, counselors or case managers, teachers, community leaders, or probation or per parole officers who have observed the applicant since their conviction; and the

§ 18A-2 length of time since conviction or release from incarceration. Successful completion of parole, probation, mandatory supervision, or post-release community supervision shall create a presumption of rehabilitation. § 18A-2

**HOUSING FACILITY** — Any dwelling unit or facility used or intended or designed to be used as the home, domicile or residence of one or more persons, including, but not limited to, a house, apartment, rooming house, housing cooperative, homeless shelter, hotel, motel, tourist home, retirement home or nursing home.

**LANDLORD** — Any owner, lessor, sublessor, managing agent, or company, or any other person that rents, leases, or approves the rental or lease of a housing facility, or makes tenancy decisions.

**PUBLIC HOUSING** — Rental housing facilities developed with federal, state, or local government (City or county) funding or which pay an annual service charge in lieu of taxes and are intended for eligible low-income individuals and families, the elderly, and persons with disabilities.

**REAL ESTATE TRANSACTION** — The sale, exchange, rental or lease of real property.

**RENTAL APPLICATION FEE** — Any fee paid by an applicant to a landlord to permit a background check of the applicant before or after a leasehold contract is created.

**SOURCE OF INCOME** — Lawful verifiable income derived from wages, salaries or other compensation for employment, money derived from a gift or bequest, contract (including insurance proceeds), loan, or the settlement or award for a claim for personal injury. It also includes but is not limited to social security benefits, supplemental security income, unemployment benefits, retirement income, alimony, child support, Federal Housing Choice Voucher, Local Housing Assistance Fund Millage, or any other housing subsidy.

**SURVIVOR OF DOMESTIC VIOLENCE** — An individual against whom any of the following acts were perpetrated by a person that was not an act of self-defense:

- (1) Causing or attempting to cause physical or mental harm to a family or household member;
- (2) Placing a family or household member in fear of physical or mental harm;
- (3) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress; or
- (4) Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, threatened, harassed, or molested.
- (5) Conduct constituting sexual assault as described in MCLA §§ 750.520a to 750.520I.
- (6) Conduct constituting stalking as defined at MCLA §§ 750.411h and 750.411i.

ARTICLE II  
**Fair Housing Standards**

**§ 18A-3. Discriminatory housing practices.**

Except as otherwise provided in this chapter:

- A. No person shall discriminate in leasing, selling or otherwise making available any housing facilities.
- B. No person shall discriminate in the terms, conditions, maintenance or repair in providing any housing facility.
- C. No person shall refuse to lend money for the purchase or repair of any real property or insure any real property solely because of the location in the City of such real property.
- D. No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to any protected classification.
- E. No person shall place a sign or other display on any real property which indicates that the property is for sale or has been sold when it is not for sale or has not recently been sold.
- F. Landlords must carefully consider the reason for and length of time since an actual eviction of, or eviction filing against, a rental applicant. No landlord shall have or enforce a blanket policy that prohibits renting to a person based on eviction filings or actual evictions, or outright bans prospective tenants with prior actual evictions or eviction filings.
- G. No person is permitted to establish a blanket policy banning any aspect of housing because of a conviction record except when mandated by federal or state law.
- H. A landlord may not refuse or base an adverse action, in whole or in part, on either an applicant or tenant with the status as a victim of domestic violence or having an early lease termination under MCLA § 554.601b.
- I. No person shall fail to account for any tenant or prospective tenant's entire source of income when using a financial income standard for entering into or renewing a tenancy or lease for a housing facility.
- J. A landlord may not require an individual who receives housing assistance of dedicated rent via voucher or any other housing subsidies to earn any more than what is needed to pay for utilities as a requirement for tenancy.

**§ 18A-4. Rental housing: prohibition on criminal record inquiries.**

- A. No person shall use any criminal history information, other than convictions contained in a conviction record, to deny an individual any aspect of housing. An individual's conviction record may only be used to deny the individual housing if the landlord considers an applicant's conviction record taking into account such factors as evidence of rehabilitation, the length of time since conviction, the severity of a criminal conviction, the relevance of the conviction to housing, and any circumstances surrounding the conviction relating to disability or domestic violence. This provision shall not bar a landlord from considering criminal conduct occurring on the premises of the landlord's property, regardless of whether that conduct resulted in conviction.
- B. It is the responsibility of a landlord to ensure that its employees and agents comply with this section.
- C. Regarding applicants and their household members, a landlord may base an adverse action in whole or in part on directly related convictions that have a direct and specific negative bearing on the safety of persons or real property, given the nature of the housing, and includes one or more of the following:
  - (1) Any conviction where state or federal law prohibits the applicant from being eligible for public housing;
  - or

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(2) Any conviction that leads to the applicant becoming a lifetime registered sex offender.

§ 18A-5

- D. The landlord shall promptly notify the applicant of any final adverse action based upon their conviction history or contents of the criminal background check.
- E. It shall be unlawful for any landlord to engage in a communication, including the production or dissemination of advertisements, related to housing that expresses, directly or indirectly, that any person with an arrest record or conviction record will not be considered for the rental or lease of real property or may not apply for the rental or lease of real property, except as permitted by local, state or federal law. For purposes of this subsection, "engage in a communication" includes, but is not limited to, making a verbal statement or producing or disseminating any solicitation, advertisement or signage.
- F. A landlord shall state in all solicitations or advertisements for the rental or lease of eligible housing, or made on their behalf, that a landlord will consider qualified applicants consistent with this chapter. This language shall include, at a minimum, the following statement:

"The rental or lease of this property must comply with the City of Kalamazoo ordinance regulating the use of criminal background checks as part of the tenant screening process to provide individuals with criminal backgrounds a fair opportunity. For additional information please contact the City of Kalamazoo Civil Rights Board."

#### § 18A-5. Rental application fees.

- A. A rental application fee may not exceed the actual cost of the background check process, which may include national, state and local criminal histories, credit reports, rental history records, reference checks, eviction records and employment verification obtained by a landlord to screen an applicant. An application fee shall not include administrative fees, except for actual reasonable costs necessarily incurred to check the rental history and employment verification of an applicant. Landlords must provide applicants an itemized explanation of an application fee. A landlord must provide an applicant with any reports or correspondence generated as a result of the screening process to the extent permitted or required by state and federal law.
- B. Before receiving a rental application fee, a landlord must provide a written notice to the applicant setting forth the criteria on which the application will be judged and the amount of the application fee that will be charged. The amount received shall not exceed the amount disclosed.
- C. Landlords shall only advertise housing facilities, receive applications, screen applicants and accept rental application fees for properties that are readily available for rent and occupancy unless an applicant consents in writing to being added to a waiting list. A housing facility is no longer considered readily available if a different applicant has been offered the housing facility and accepted and has placed a deposit on the housing facility. For purposes of this section, a housing facility will be considered readily available if a tenant of the unit has declared they will not be renewing the lease. Landlords shall document the date and time that deposits are placed on housing facilities.
- D. A landlord may collect and hold an application fee for an available housing facility for up to 30 calendar days so long as the landlord provides a written receipt to the applicant. If a housing facility becomes no longer available after applications and application fees are received but before some applications have undergone screening process, all application fees associated with unscreened applications must be returned to the respective applicants within 14 calendar days from the date the housing facility is no longer available for rent.
- E. In all cases where an applicant is not offered the housing facility applied for, the landlord shall provide the applicant with a written statement explaining the reason or reasons that the housing facility was not offered to the applicant. The explanation must provide the applicant with a clear statement of the reason or reasons that the housing facility was not offered along with any documentation substantiating the reason or reasons.
- F. If an applicant believes the application fee exceeds the actual cost of the screening process or believes that

§ 18A-5 the reasons for denial deviate from the disclosed criteria for evaluating the application, or believes that the landlord has violated any other requirement of this section, the applicant or their representative may, within 30 days of receipt of the denial, file a written complaint with the City Manager or the City Manager's designee. For purposes of this section, a denial means any circumstances which the applicant is not offered the housing facility.

G. If it is determined that a landlord has violated this section, in addition to any fines imposed as a result of a municipal civil infraction, the rental property owner must refund the entire application fee to the applicant, including, but not limited to, situations in which the screening process has not occurred or has not been documented sufficiently prior to denial.

**§ 18A-6. Exercise of rights protected; retaliation prohibited.**

- A. It shall be unlawful for a landlord or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this chapter.
- B. It shall be unlawful for a landlord to interrupt, terminate, or fail to refuse to initiate or conduct a transaction involving the rental or lease of eligible housing, including falsely representing that such property is not available for rental or lease, or otherwise take adverse action against a person in retaliation for exercising rights protected under this chapter. Such rights include but are not limited to:
  - (1) The right to file a complaint or inform any person about a landlord's alleged violation of this chapter;
  - (2) The right to inform the administering agency about a landlord's alleged violation of this chapter;
  - (3) The right to cooperate with the administering or enforcing agencies or other persons in the investigation or prosecution of any alleged violation of this chapter; or
  - (4) The right to inform any person of their rights under this chapter.
- C. Protections of this section shall apply to persons who mistakenly but in good faith allege violations of this chapter.
- D. Taking adverse action against a person within 90 days of the exercise of one or more rights described in this section shall create a rebuttable presumption in the administering agency's investigation of such adverse action that such adverse action was taken in retaliation for the exercise of those rights.

**§ 18A-7. Exceptions.**

The following practices are not violations of this chapter:

- A. For a religious organization to restrict the occupancy of any of its housing facilities or accommodations which are operated as a direct part of its religious activities to persons who are members of the denomination involved or who agree to conform to the moral tenets of that religious organization. This exception does not include housing facilities or homeless shelters that are generally made available to the public at large as part of the religious organization's mission, proselytizing, or religious activities.
- B. For the owner of an owner-occupied, one-family or two-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of one sex, to restrict occupancy and use based on sex.
- C. To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, persons over 50 years of age or disabled persons.
- D. To discriminate in any arrangement for the shared ownership, lease or residency of a housing facility.
- E. In the rental of housing facilities in a building which contains dwelling units for not more than two families

§ 18A-7 living independently of each other if the owner of the building or a member of the owner's family resides in one of the dwelling units, or to the rental of a room or rooms in a single-family dwelling by an individual if the lessor or a member of the lessor's family resides in the dwelling. § 18A-8

**§ 18A-8. Landlord records.**

- A. Unless prohibited by federal or state law, a landlord shall maintain and retain records of tenant application forms, and other pertinent data and records required in this chapter, for a minimum of one year from the date of application, and shall allow the administering or enforcing agencies to access such records, with appropriate notice and at a mutually agreeable time, to monitor or verify compliance with the requirements of this Chapter.
- B. At no time shall the administering or enforcing agencies require a landlord to provide any information or documents the disclosure of which would violate local, state or federal law.
- C. Anytime a landlord does not maintain or provide adequate records documenting compliance with this chapter or does not allow reasonable access to such records, the Office of the Chief Financial Officer or other City department or agency shall have the authority to provide all nonfinancial information necessary to fulfill the administering or enforcing agencies' responsibilities under this chapter, subject to applicable federal and state confidentiality laws.



ARTICLE III  
**Enforcement**

**§ 18A-9. Notices.**

The City Manager or his or her designee shall publish on the City website and make available to landlords, in all languages spoken by more than 5% of the City population, a notice suitable for posting that informs housing applicants of their rights under this chapter. This notice shall be updated on or before December 1 of any year in which there is a change in the language spoken by more than 5% of the City population.

**§ 18A-10. Remedies.**

The provisions of this chapter are to be enforced through any of the mechanisms provided at Article III of Chapter 18, §§ 18-9 through 18-13.

**§ 18A-11. Commencement of enforcement.**

No complaints seeking the enforcement of the provisions of this chapter may be filed with the City prior to November 30, 2020.



**Chapter 18B**

**KALAMAZOO TRANSPORTATION CENTER**



§ 18A-11

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 10-31-1983 by Ord. No. 1295; amended in its entirety 7-21-2008 by Ord. No. 1844. Subsequent amendments noted where applicable.]**

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**GENERAL REFERENCES**

City bus system — See Ch. 11.

Vehicles for hire — See Ch. 37.

Traffic Code — See Ch. 36.



**§ 18B-1. Title.**

This chapter shall be known as the "Kalamazoo Transportation Center Ordinance of the City of Kalamazoo."





**§ 18B-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**CITY MANAGER** — The City Manager of the City of Kalamazoo or the designee of the City Manager.

**DANGEROUS WEAPON** — A loaded or unloaded firearm, whether operable or inoperable, a knife with a blade over three inches in length, a knife opened by a mechanical device, brass knuckles, and similar objects or devices.

**DIRECTOR OF THE KTC** — The person holding that title, and any other person in charge of the day-to-day operations of the KTC, or their designees.

**INTRACITY BUS** — A bus that operates only in Kalamazoo County.

**INTERCITY BUS** — A common carrier, such as Greyhound or Indian Trails;

**KALAMAZOO TRANSPORTATION CENTER ("KTC")** — The premises and grounds located at 459 North Burdick Street, Kalamazoo, Michigan; for the purposes of this chapter, it shall more specifically include the area within the following boundaries:

- A. On the east and west, inside the existing sidewalks;
- B. On the north, south of the existing building that lies immediately to the north of the railroad tracks; and
- C. On the south, within the existing fencing or, where there are gaps in the fencing, the imaginary line between the existing fencing.

**SMOKE** — The possession by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.



**§ 18B-3. Prohibitions and consequences.**

- A. No person shall be or remain upon the KTC premises unless:
- (1) Intending to depart on a train or an intercity or intracity bus, scheduled to depart within 60 minutes, in which case said person shall depart on the next departing train or bus for the destination of interest;
  - (2) Waiting for a passenger on an arriving train or intercity bus scheduled to arrive within the next 60 minutes;
  - (3) Accompanying a person intending to depart on a train or intercity bus scheduled to depart within the next 60 minutes; or
  - (4) Using one of the businesses found within the KTC building, in which case said person must conduct his or her business in a reasonable time, then depart the KTC building as soon the business transaction is concluded (unless allowed to remain at the KTC by other provisions of this chapter, such as departing on a train, etc.).
- B. Upon request from a Kalamazoo Public Safety Officer, having probable cause to believe that a violation of this chapter or other City ordinance has occurred, a person upon the KTC premises shall provide information establishing that his or her presence complies with this chapter. Persons unable or unwilling to provide such information may be directed by the Public Safety Officer to leave the premises. Failure to immediately leave the KTC premises as directed by a Public Safety Officer is a misdemeanor.
- C. Persons otherwise lawfully upon the KTC premises shall not:
- (1) Obstruct entrances and exits to the KTC building or rooms within the building;
  - (2) Operate any sound-producing or sound-amplifying device unless headphones are used;
  - (3) Be barefooted or shirtless;
  - (4) Possess a dangerous weapon unless in possession of a permit to do so, or otherwise permitted by law;
  - (5) Sleep or lie down on benches, chairs or the floor;
  - (6) Ride a bicycle, cause a bicycle to be inside the KTC building, or cause a bicycle to remain at the KTC premises for more than 24 hours; bicycles that remain at the KTC premises in excess of 24 hours shall be deemed abandoned and may be removed by the City;
  - (7) Use the restroom facilities for other than for customary restroom purposes, which purposes do not include, among others, the use of sinks, toilets or other sources of water for bathing or the washing of clothing;
  - (8) Smoke;
  - (9) Consume or possess alcoholic beverages for which the container's seal has been broken;
  - (10) Use or occupy an area in violation of a posted sign regarding permitted or prohibited uses of said area;
  - (11) Leave a bag or similar container of personal belongings outside their immediate control and possession;
  - (12) Solicit money or objects of value in any manner, including but not limited to as addressed in § 22-18 of the Kalamazoo City Code, or offer to others goods or services, including entertainment, whether or not compensation or donation is sought;
  - (13) Fight, quarrel or create a disturbance, as addressed in §§ 22-30 and 22-50 of the Kalamazoo City Code;
  - (14) Be accompanied by any animal except for leader dogs for the blind, hearing dogs for the deaf, service

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dogs for disabled persons, or when secured in a transportable cage;

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(15) Distribute literature or solicit signatures unless outside and to the south of the KTC building and more than 15 feet from any door to the KTC building or to any bus.

- D. The KTC Director or any Public Safety Officer who has probable cause to believe that a person has, within the preceding year, violated one or more of the provisions of this chapter, or that a person, while on KTC premises or on a bus or train that stops at the KTC, has violated any other criminal ordinance or statute, may issue to the person a written statement indicating that the person is banned from the KTC premises and/or a City bus.
- E. Any person who violates one or more of the provisions above shall be deemed guilty of a misdemeanor. In the event that a person is convicted of a violation of any provision of this chapter, the court may, as part of any sentence imposed for such an offense, prohibit the person from being upon the KTC premises.

**§ 18B-4. Hearings and appeals.**

- A. The following process shall apply to the banning of a person from the KTC premises:
- (1) A written ban shall be provided to the affected person, specifying the ban's duration and describing the nature of the violation.
  - (2) The duration of a ban imposed by the Director of the KTC or a Public Safety Officer shall not be for more than one year.
  - (3) Unless otherwise indicated, a ban shall not bar the person from riding an intracity bus, only from being upon the KTC premises.
- B. A person who has received a ban from a Public Safety Officer may request a hearing before the Director, and a person who has received a ban from the Director may request a hearing before the City Manager, subject to the following provisions:
- (1) The request for a hearing shall be in writing, filed during either the duration of the ban or within 14 days of the issuance of the ban, whichever period is shorter, at the office of the Director;
  - (2) Said hearing shall occur within five business days of said filing;
  - (3) The hearing officer shall admit evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs;
  - (4) The party requesting the hearing may be represented by an attorney and, in the case of a minor, he or she shall be represented by an attorney or his or her parent or legal guardian;
  - (5) The burden of proof shall lie with the Public Safety Officer to show by substantial evidence that the person banned from the KTC violated a provision of this chapter;
  - (6) Within three business days of the hearing, the hearing officer shall issue a written decision affirming, reversing or modifying the ban.
- C. A person aggrieved by the hearing officer's decision upon the appeal of a ban imposed by a Public Safety Officer, or of a ban imposed by the Director, may appeal to the Kalamazoo County Circuit Court any time within 21 days of the ban or decision. The Circuit Court shall review the record and decision to ensure that the decision:
- (1) Complies with the Constitution and laws of the state;
  - (2) Complies with the requirements of this chapter;
  - (3) Is supported by competent, material, and substantial evidence on the record; and
  - (4) Represents the reasonable exercise of discretion granted by this chapter to the hearing officer.
- D. If the court finds the record inadequate to make the review required by this chapter or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The hearing officer may modify his or her findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.
- E. A person prohibited to be on the KTC premises by either a ban or a court order shall not be upon said premises for the duration of the ban or court order.



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**§ 18B-5. Designation as non-public forum.**

The KTC is intended to accommodate and provide security for the traveling public. Access to the KTC by other persons is restricted to further those purposes. In light of these purposes, the City designates the KTC as a non-public forum with the intention of limiting, consistent with applicable First Amendment jurisprudence, expressive activity and other conduct permitted on the premises.





**Chapter 19**

**KALAMAZOO MALL**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as Adm. Code §§ A224 through A224.8A. Amendments noted where applicable.]**

GENERAL REFERENCES

Building code — See § 9-21 et seq.

Streets and other public property — See Ch. 33.

Open containers and consumption of alcoholic beverages at Kalamazoo Mall — See § 22-42.1.

Traffic Code — See Ch. 36.

Equal distribution of tag day solicitations and sales in mall areas — See § 25-94.

Bicycle riding at Kalamazoo Mall — See §§ 36-225 and 36-226.

**§ 19-1. Definitions. [Amended 7-31-2000 by Ord. No. 1704]**

As used in this chapter, the following terms shall have the meanings indicated:

MALL — The Kalamazoo Mall, as established in § 19-2.

**§ 19-2. Established. [Amended 3-24-1976 by Ord. No. 1046; 7-31-2000 by Ord. No. 1704<sup>88</sup>]**

A. The following streets, alleys or public places in the City of Kalamazoo are hereby declared and established as the Kalamazoo Mall:

- (1) Formerly, South Burdick Street, from Michigan Avenue to South Street.
- (2) Formerly, South Burdick Street, from South Street to Lovell Street.
- (3) Formerly, North Burdick Street, from Michigan Avenue to Water Street.
- (4) Formerly, North Burdick Street from Water Street to Eleanor Street.

**§ 19-3. Controlling effect of chapter. [Amended 7-31-2000 by Ord. No. 1704<sup>89</sup>]**

To the extent that this chapter and policies and programs implemented pursuant to authority granted by this chapter may be inconsistent with other ordinances of this City, including the traffic and building codes among others, this chapter shall be deemed to control. In all other instances, applicable provisions of other sections of the Code of Ordinances shall apply to the mall area.

**§ 19-4. Design standards. [Amended 6-9-1986 by Ord. No. 1382; 7-31-2000 by Ord. No. 1704<sup>90</sup>]**

The location, number and appearance of projecting signs, awnings, marquees, facade improvements, newspaper boxes, and other installations on the mall shall conform to such design standards or regulations as may be approved by the City Commission.

**§ 19-5. Self-propelled vehicles, bicycles, roller skates and skateboards prohibited; exceptions; enforcement. [Amended 1-27-1986 by Ord. No. 2368; 7-31-2000 by Ord. No. 1704<sup>91</sup>]**

A. No person shall operate or cause to be operated in the mall any self-propelled vehicle at any time except as

88. Editor's Note: Ord. No. 1704, adopted 7-31-2000, repealed former § 19-2 (which pertained to finding of facts regarding the Kalamazoo Mall) and renumbered former § 19-3, Established, as § 19-2.

89. Editor's Note: Ord. No. 1704, adopted 7-31-2000, renumbered former § 19-4, Controlling effect of chapter, as § 19-3.

90. Editor's Note: Ord. No. 1704, adopted 7-31-2000, renumbered former § 19-9, Projecting signs, as § 19-4, Design standards.

91. Editor's Note: Ord. No. 1704, adopted 7-31-2000, renumbered former § 19-11 as § 19-5. Ord. No. 1704 repealed former § 19-5, which pertained to compliance with chapter and Commission rules and regulations.

§ 19-5 permitted on those portions of the south two blocks of the mall which are designated for limited use by § 19-7 vehicular traffic. This provision shall not apply to ambulance, police, fire, or utility service vehicles urgently needed in or immediately adjoining the mall in an emergency, nor to special event vehicles or other delivery vehicles specifically approved by the City.

- B. The riding of bicycles, tricycles or other pedal-powered contrivances and devices on the mall is prohibited, except on that area of the mall designated for vehicular traffic.
- C. The use of any skateboard, roller blades, non-motorized scooters, or roller skates in the mall is prohibited, including that area of the mall designated for vehicular traffic.
- D. The traffic engineer, or such other person or board as may be designated by the City Manager, is hereby authorized and directed to install such signs, barricades and other devices as may be necessary to ensure public safety. The City and the Department of Public Safety shall have the authority to enforce such regulations by the issuance of civil infraction citations.

**§ 19-6. Special events. [Amended 7-31-2000 by Ord. No. 1704<sup>92</sup>]**

A. Special events, including demonstrations, displays, entertainments, special promotions advertising of events and events having limited disturbance features, general interest and short duration, may be conducted in the mall area, if approved, in advance, by the City Manager, or by his or her designee. Application for such approval shall be submitted for approval in writing to the City Clerk, or to such other person as the City Commission may designate. Unless otherwise directed by the City Commission, the Clerk shall forward the application to the City Manager for approval. Such approval or rejection shall then be reported to the City Commission. Where practical, notification of the application shall be provided to such downtown advisory boards and other bodies as may be appropriate. In determining whether to approve the application, either as requested or with modifications, consideration shall be given to the following factors:

- (1) Public interest and welfare;
- (2) Possible interference with legitimate uses of land and buildings in the mall vicinity;
- (3) Possible excessive noise;
- (4) Increased litter;
- (5) Damage to mall appointments and landscaping;
- (6) Financial responsibility;
- (7) Consumer protection;
- (8) Environmental concerns; and
- (9) All other pertinent factors.

**§ 19-7. Solicitations and sales.<sup>93</sup>**

- A. Solicitations and sales shall not be made or permitted on the mall area except:
  - (1) Tag days permitted pursuant to Article V of Chapter 25 of this Code.
  - (2) When permission is expressly granted by the City Manager or his or her designee, under such conditions

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92. Editor's Note: Ord. No. 1704, adopted 7-31-2000, renumbered former § 19-12 as § 19-6. Ord. No. 1704 also repealed former § 19-6, which pertained to the advisory board for the Kalamazoo Mall, as amended.

93. Editor's Note: Ord. No. 1704, adopted 7-31-2000, renumbered former § 19-14 as § 19-7. Ord. No. 1704 also repealed former § 19-7, which pertained to construction and maintenance of improvements, as amended.

§ 19-7 as the City may prescribe, for the sale of food, beverages, flowers, tickets to public events and other items. § 19-15

§ 19-8. (Reserved)<sup>94</sup>

§ 19-9. (Reserved)<sup>95</sup>

§ 19-10. (Reserved)<sup>96</sup>

§ 19-11. (Reserved)<sup>97</sup>

§ 19-12. (Reserved)<sup>98</sup>

§ 19-13. (Reserved)<sup>99</sup>

§ 19-14. (Reserved)<sup>100</sup>

**§ 19-15. Prohibition of automobile traffic and parking along the Kalamazoo Mall. [Added 11-5-1996 by Ord. No. 1626<sup>101</sup>]**

It shall hereafter be unlawful for the City Commission or City officials, City committees, employees or contractors to redesign and reconstruct the Kalamazoo Mall between Lovell and Eleanor Streets (formerly known as Burdick Street) for the purpose of permitting automobile traffic and/or parking along the same without a favorable vote of a majority of the registered electors of the City voting on such redesign and reconstruction at a general or special election called for that purpose. Said Chapter 19 shall not be repealed or further amended in any manner that would permit such traffic or parking without an approving vote of a majority of the registered electors of the City voting on such repeal or amendment at a general or special election called for that purpose.

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94. Editor's Note: Ord. No. 1704, adopted 7-31-2000, repealed former § 19-8, which pertained to the applicability of the building code and procedure for issuance of building permits.

95. Editor's Note: See the editor's note immediately following § 19-4 of this chapter.

96. Editor's Note: Ord. No. 1704, adopted 7-31-2000, repealed former § 19-10, which pertained to marquees and awnings.

97. Editor's Note: See the editor's note immediately following § 19-5 of this chapter.

98. Editor's Note: See the editor's note immediately following § 19-6 of this chapter.

99. Editor's Note: Ord. No. 1704, adopted 7-31-2000, repealed former § 19-13, which pertained to installation and use of loudspeakers.

100. Editor's Note: See the editor's note immediately following § 19-7 of this chapter.

101. Editor's Note: The provisions of Ord. No. 1626 were approved by the voters at an election held on 11-5-1996.



**Chapter 20**

**KALAMAZOO MUNICIPAL MARKET**





**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Kalamazoo Mall** — See Ch. 19.

**at City market** — See § 25-32A(7).

**Parks and recreation** — See Ch. 23.

**Streets and other public property** — See Ch. 33.

**Transient merchants ordinance not applicable to persons renting stalls**

**Weights, scales and measures** — See Ch. 39.

**§ 20-1. Definitions. [Amended 5-21-1979 by Ord. No. 1158]**

As used in this chapter, the following terms shall have the meanings indicated:

**MARKET or PUBLIC MARKET** — The Kalamazoo Municipal Market.

**§ 20-2. Authority to maintain; name and location. [Adm. Code § A213.310]**

A public market, to be known as the "Kalamazoo Municipal Market," may be maintained by the City and located as may be determined by the City Commission.

**§ 20-3. Under City Manager's direction; responsibility of Department of Public Services. [Adm. Code § A213.311; amended 5-21-1979 by Ord. No. 1158; 9-7-1982 by Ord. No. 1268]**

The market shall be under the direction of the City Manager. The Department of Public Services shall be responsible for the maintenance and operation of the market.

**§ 20-4. Rules and regulations of City Manager. [Adm. Code § A213.320]**

The City Manager may make such rules and regulations, not inconsistent with the provisions of this chapter, for the conduct of the market as he deems advisable. Such rules and regulations shall become effective when approved by the City Commission and it shall be unlawful for any person to violate any of the provisions thereof. Copies of such rules and regulations shall be obtainable from the market master.

**§ 20-5. Appointment and general duties of market master. [Adm. Code §§ A213.312, A213.313]**

The City Manager shall appoint a market master, who shall be in full charge at the market. The market master shall assign spaces to those desiring such, on a daily basis, collect the fees for the same and issue a receipt therefor; acquaint himself with the price levels of the commodities offered for sale on the market, and be prepared to answer inquiries regarding them; maintain order and eject from the market any disorderly persons; see that the buyer and seller alike receive just consideration; keep the market clean and sanitary at all times; and perform such other duties as are prescribed in this chapter or which may be assigned to him by the City Manager.

**§ 20-6. Market master's reports, deposits, records, etc. [Adm. Code § A213.313; amended 5-21-1979 by Ord. No. 1158; 9-7-1982 by Ord. No. 1268]**

The market master shall submit a daily report to the Department of Public Services and deposit daily with the City Treasurer all revenues received. He shall keep such books and records as may be required by the Director of Finance. He shall be furnished with all forms, cards, tickets, stationery and other miscellaneous articles necessary to carry on the business of the market.

§ 20-7

§ 20-9

**§ 20-7. Acting market master.**

The City Manager may appoint an acting market master in the absence of the market master, and such acting market master shall thereupon be vested with the full powers and duties of the market master under this chapter.

**§ 20-8. Price fixing.**

The market master shall not establish or fix prices to be charged for the commodities on the market, nor in any way be a party thereto. Should he have knowledge of any dishonest dealings, misrepresentations or attempt by any individual or groups of individuals to combine, to fix, set or maintain uniform prices on the market, he shall immediately warn those concerned that such practices will not be tolerated on the market, and a second offense shall be grounds for barring the guilty party or parties from the use of the market.

**§ 20-9. Violations of chapter or rules and regulations.**

In addition to the penalty prescribed by § 1-7 of this Code, any violation of this chapter or of the rules and regulations referred to in § 20-4 shall be grounds for barring the offender from the privilege of using the market.

**Chapter 20A**  
**LAND DIVISION**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 7-21-1997 by Ord. No. 1640. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Buildings and building regulations — See Ch. 9.**

**Streets — See Ch. 33.**

**Historic districts — See Ch. 16.**

**Zoning Ordinance — See App. A.**

**Housing Code — See Ch. 17.**

**Land Subdivision Standards Ordinance — See App. B.**

**STATUTORY REFERENCES**

**Land Division Act — See MCLA § 560.101 et seq.**

**§ 20A-1. Title, scope, and purpose.**

- A. The regulations of this chapter are adopted pursuant to the statutory authority granted by Act No. 288 of the Michigan Public Acts of 1967, as amended, known as the "Land Division Act."<sup>102</sup>
- B. This chapter shall apply to all land divisions as governed by the provisions of the Land Division Act, Act 288 of the Michigan Public Acts of 1967, as amended. Approval of any land division does not constitute use approval of any such division. Such use of land shall comply with the City's Zoning Ordinance or all other applicable ordinances or regulations.
- C. It is not intended by this chapter to repeal, abrogate, annul, or in any other way impair or interfere with existing provisions of other laws or ordinances, or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this chapter imposes more stringent requirements, regulations, restrictions, or limitations upon the use of land and buildings, or upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinances, or any said rules, regulations, permits, or easements, then the provisions of this chapter shall govern.
- D. The purpose of this chapter is to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that land be suitable for building sites and public improvements; to ensure that provisions are made for adequate drainage, ingress and egress; and to ensure that land divisions are correctly and accurately approved, recorded, and filed.

**§ 20A-2. Definitions.**

The definitions of the Land Division Act of 1967, as amended, are hereby included and made a part of this chapter. The definitions in the City's Zoning Ordinance, as amended, are hereby included and made a part of this chapter.<sup>103</sup>

**§ 20A-3. Land division approvals.**

- A. An application for land divisions or splits shall be submitted through the City Assessor's office by an individual or entity having an ownership interest in the parcel proposed for division. Each application shall be accompanied by the following, unless deemed unnecessary by the City Assessor:
  - (1) The payment of a fee as established by the City;

<sup>102</sup>Editor's Note: See MCLA § 560.101 et seq.

<sup>103</sup>Editor's Note: See App. A, Zoning Ordinance, § 12.3, Definitions and Use Categories.  
20A:3

- (2) A completed application form;
  - (3) A complete and accurate legal description of each proposed lot or parcel created by the land division;
  - (4) A detailed written description of the development planned for such land divisions, including a description of any proposed association or other entity which shall be responsible for operation and maintenance of any private streets, open spaces or other similar uses or activities;
  - (5) The history and specifications of any previous divisions of land of which the proposed division was a part which will [be] sufficient documentation to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of Public Act 591 of 1996;<sup>104</sup>
  - (6) Evidence showing 1) that each proposed buildable parcel is served or will be served by the City's public sewer system, or an evaluation/indication of approval of a soil evaluation or septic system permit for each proposed buildable parcel prepared by the Kalamazoo County Environmental Health Department; and 2) that each proposed buildable parcel is served or will be served by the City's public water system, or an evaluation/indication of approval for a well permit for potable fresh water for each proposed buildable parcel prepared by the Kalamazoo County Environmental Health Department;
  - (7) Three copies of a complete tentative parcel map drawn to scale, which shall not be less than one inch equals 20 feet for property totaling under three acres and at least one inch equals 100 feet for those totaling three acres or more. The parcel map shall be prepared by a registered engineer or land surveyor or other such person determined by the City Assessor, or his or her designee, to be qualified to complete such parcel maps;
  - (8) The tentative parcel map shall include, at a minimum, the following:
    - (a) Date, north arrow, scale, and name of the individual or firm responsible for the completion of the tentative parcel map.
    - (b) Proposed parcel lines and their dimensions.
    - (c) Location and nature of proposed ingress and egress locations to any existing public or private streets.
    - (d) The location of any public or private street, driveway, or utility easements to be located within any proposed lot or parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.
    - (e) General topographical features including contour intervals no greater than 10 feet.
    - (f) Any existing buildings, public or private streets, and driveways within 100 feet of all proposed property lines.
    - (g) The zoning designation of all proposed lots or parcels.
    - (h) Small scale sketch of properties and streets within 1/4 mile of the area.
    - (i) Proposed method of handling stormwater drainage.
- B. Applications for land divisions shall not be accepted unless all of the required materials are submitted, are complete, and are in a form acceptable to the Assessor.
- C. The application, along with the required materials shall be forwarded to the City Assessor.
- D. Land divisions shall be reviewed and approved by the City Assessor, who shall review the application and

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104. Editor's Note: See MCLA § 560.101 et seq.

- § 20A-3 such other available information including recommendations or reports from the City Planner, Attorney, Engineer, or other party, and shall approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed. The Assessor shall either approve the application, approve the application with conditions, or deny the application. § 20A-5
- E. The approval, approval with conditions, or denial of a land division shall be accomplished within 30 days after the filing of a completed, accepted application by the City Assessor. In the event that the application is approved with conditions or is denied, the Assessor shall provide the applicant with a written communication which fully describes the reasons for the decision. If the application does not conform to the requirements of this chapter and those of the Michigan Land Division Statute, the Assessor shall return the application for completion and refiling.
  - F. Approval of a land division does not grant approval for the use of such divided lot or parcel. Any lot or parcel proposed for division must comply with the requirements of the City's Zoning Ordinance and any other applicable ordinances or regulations.
  - G. Land division approvals shall be valid for a period of 60 days from the date of approval by the Assessor's office. If such lots or parcels proposed by the land division are not properly recorded and accepted by the Kalamazoo County Register of Deeds within this period, the land division approval shall be considered null and void and a new application shall be submitted in compliance with the requirements of this chapter. Upon the filing with the Assessor of a copy of a properly recorded deed certifying the land division, the Assessor shall effectuate the land division as recorded by Kalamazoo County.

**§ 20A-4. Land division requirements.**

- A. Any division of land regulated by this chapter shall not be approved by the Assessor unless it complies with all applicable City ordinances.
- B. Any land division creating a buildable parcel shall front upon a public street or private road right-of-way or easement meeting the requirements of the City's Zoning Ordinance for the minimum lot width required by the zone district in which the lot or parcel is located.
- C. Any proposed points of ingress or egress to a lot or parcel created by the land division must meet the City's location and design standards or those of the authority having jurisdiction over the roadway to which access is planned.
- D. Any lot or parcel created by a land division shall comply with all requirements of this chapter and other applicable City ordinances and regulations.
- E. The Assessor or his or her designee may stipulate such additional conditions and safeguards as are deemed necessary to ensure compliance with the requirements of this chapter.

**§ 20A-5. Remedies and enforcement.**

- A. A violation of any provision of this chapter is hereby declared to be a nuisance, per se. A violation of this chapter shall be a misdemeanor, for which the fine shall be not less than \$100 nor more than \$500. Each day during which any violation continues shall be deemed a separate offense.
- B. Nothing in this section shall be construed as limiting the City from pursuing other legal remedies to address a violation of this chapter, including an action seeking invalidation of the land division and other appropriate injunctive relief.
- C. Any parcel created in noncompliance with this chapter shall not be eligible for any building permits or zoning approvals, including special land use approval or site plan approval. No parcel created in noncompliance with this chapter shall be recognized as a separate parcel on the City's annual assessment roll.





**Chapter 20B**

**MARIHUANA COMMERCIAL BUSINESSES**



§ 20A-5

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 8-1-2022 by Ord. No. 2052.<sup>105</sup> § 20A-5  
Amendments noted where applicable.]**



ARTICLE I  
**General Provisions**

**§ 20B-1. Title.**

This chapter is to be known and may be cited as the "City of Kalamazoo Marihuana Commercial Business Ordinance."

**§ 20B-2. Purpose and intent.**

- A. Purpose. The purpose of this chapter is to implement the provisions of Public Act 281 of 2016, being the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), and 2018 Initiated Law No. 1, being the Michigan Regulation and Taxation of Marihuana Act, so as to protect the public health, safety, and welfare of residents of the City by setting forth the manner in which marihuana commercial businesses can be operated in the City. Further, the purpose of this chapter is to:
- (1) Authorize the establishment of marihuana businesses within the City and provide standards and procedures for the review, issuance, renewal, and revocation of City-issued permits for such businesses;
  - (2) Impose fees to defray and recover the cost to the City of the administrative and enforcement costs associated with marihuana businesses;
  - (3) Coordinate with state laws and regulations addressing marihuana businesses.
- B. Legislative intent. This chapter authorizes the establishment of marihuana businesses within the City of Kalamazoo consistent with the provisions of the Michigan Medical Marihuana Facilities Licensing Act and the Michigan Regulation and Taxation of Marihuana Act, subject to the following:
- (1) Use, distribution, cultivation, production, possession, and transportation of marihuana remains illegal under federal law, and marihuana remains classified as a "controlled substance" by federal law. Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law. Nothing in this chapter is intended to grant immunity from any criminal prosecution under state or federal law. This chapter does not protect patients, caregivers, or the owners of properties on which a marihuana commercial operation is occurring from prosecution or having their property seized by federal law enforcement authorities.
  - (2) This chapter is to be construed to protect the public health, safety and welfare over commercial marihuana business interests. The operation of a licensed marihuana business in the City is a revocable privilege and not a right in the City. Nothing in this chapter is to be construed to grant a property right for an individual or business entity to engage, obtain, or have renewed a City-issued permit to engage in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise in the City. The City determines that the commercialization of marihuana is a "closely regulated industry" as that term is used in U.S. Supreme Court jurisprudence.
  - (3) Any individual or business entity which purports to have engaged in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise in the City without obtaining the required authorization required by this chapter is deemed to be an illegally established nuisance, and as such is not entitled to legal nonconforming status under this chapter, the City Zoning Code, or state statutory or common law.
  - (4) Nothing in this chapter is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form that is not in strict compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act, the Michigan Regulation and Taxation of Marihuana Act, and all applicable administrative rules promulgated by the State of Michigan

§ 20B-2 regarding the commercialization of marihuana. Strict compliance with all applicable state laws and regulations is deemed a requirement for the issuance or renewal of any permit issued under this chapter, and noncompliance with any applicable state law or regulation is grounds for the revocation or nonrenewal of any permit issued under the terms of this chapter. § 20B-3

C. Indemnification of City.

- (1) By accepting a permit issued pursuant to this chapter, the holder waives and releases the City, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of marihuana business owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- (2) By accepting a permit issued pursuant to this chapter, the holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating marihuana business arising out of, claimed to have arisen out of, or in any manner connected with the operation of a marihuana business or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c).

D. Reservation of legislative prerogative.

- (1) The City Commission reserves the right to amend or repeal this chapter in any manner, including, but not limited to, the complete prohibition of any type of marihuana business or limiting the number and types of marihuana businesses authorized to operate in the City.
- (2) Nothing in this chapter is to be construed to grant or grandfather any marihuana business a vested right, license, permit or privilege for continued operations within the City.
- (3) Given the adoption of 2018 Initiated Law No. 1, which legalized the possession and use of marihuana in Michigan by persons age 21 and older, Section 199 of the City Charter, providing for the establishment of medical cannabis dispensaries, by its own terms, is null and void. Therefore, there is no rational basis to treat or make allowances for treating a medical cannabis dispensary apart from a provisioning center.

**§ 20B-3. Definitions.**

A. Unless defined by this chapter, any term used in this chapter that is defined by the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, Michigan Regulation and Taxation of Marihuana Act, or the Administrative Rules promulgated by the Michigan Department of Licensing and Regulatory Affairs addressing marihuana shall have the definition given in those Acts and Rules.

B. As used in this chapter, the following terms shall have the meanings indicated:

**APPLICANT** — A person who applies for a City-issued permit to operate a marihuana commercial business in accordance with the terms of this chapter and the City Zoning Code. With respect to disclosures in an application for a permit issued pursuant to this chapter for purposes of ineligibility for a permit and the transfer of an interest in an issued permit, the term "applicant" includes a managerial employee of the applicant, any person who holds any direct or indirect ownership interest of more than 10% in the marihuana commercial business, and the following true parties of interest for each type of applicant:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and their spouses.
- (3) For a limited partnership and limited liability limited partnership: all general and limited partners, not

§ 20B-3 including a limited partner holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the partnership, and their spouses. § 20B-3

- (4) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the company, and their spouses.
- (5) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
- (6) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
- (7) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (8) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.
- (9) For a trust: all trustees, any individual or body able to control and direct affairs of the trust, and any beneficiary who receives or has the right to receive more than 10% of the gross or net profit of the trust during any full or partial calendar or fiscal year, and their spouses.

**CULTIVATE** — To propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

**DEPARTMENT** — The Michigan Department of Licensing and Regulatory Affairs, or its successor agency.

**DESIGNATED CONSUMPTION LOUNGE** — A marihuana-related business authorized to permit individuals 21 years of age and older to consume marihuana products on the licensed premises.

**EQUIVALENT LICENSE** — Any of the following state operating licenses when held by a single licensee:

- (1) Grower licenses of any class under both the MMFLA and MRTMA.
- (2) Processor licenses under both the MMFLA and MRTMA.
- (3) Secure transporter licenses under both the MMFLA and MRTMA.
- (4) Safety compliance facility licenses under both the MMFLA and MRTMA.
- (5) A provisioning center license under the MMFLA and a retailer license under the MRTMA.

**EXCESS GROWER** — The holder of five Class C grower licenses under the MRTMA and at least two Class C grower licenses under the MMFLA.

**GROWER** — A licensee that cultivates, dries, trims, or cures and packages marihuana for sale or transfer to a processor, provisioning center or retailer, or another grower. The term also includes a licensed excess grower.

**INDUSTRIAL HEMP** — As this term is defined at MCL 333.27953.

**INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT** — Public Act 547 of 2014, as may be amended.

**LICENSEE** — A person holding a state license to operate a marihuana facility or marihuana establishment.

**LIMITED CONTACT TRANSACTIONS** — Curbside or drive-through window sales or service transactions at a marijuana sales location.

§ 20B-3 MARIHUANA — As this term is defined at MCL 333.27953. For purposes of this chapter, marihuana does not include industrial hemp. § 20B-3

MARIHUANA COMMERCIAL BUSINESS or MARIHUANA BUSINESS —

- (1) Includes the following medical marihuana facilities, whether operated for profit or not for profit:
  - (a) A grower.
  - (b) A processor.
  - (c) A secure transporter.
  - (d) A provisioning center.
  - (e) A safety compliance facility.
- (2) Includes the following adult-use marihuana establishments, whether operated for profit or not for profit:
  - (a) A grower and excess grower.
  - (b) A processor.
  - (c) A secure transporter.
  - (d) A retailer.
  - (e) A safety compliance facility.
  - (f) A microbusiness.
  - (g) Any other type of marihuana-related business licensed by the Department and permitted by this chapter and the City Zoning Ordinance as set forth in Chapter 50 of this Kalamazoo City Code.

MARIHUANA ESTABLISHMENT or ESTABLISHMENT — A location at which a licensee is licensed to operate under the MRTMA and this chapter.

MARIHUANA FACILITY or FACILITY — A location at which a licensee is licensed to operate under the MMFLA and this chapter.

MARIHUANA PLANT — Any plant of the genus Cannabis but does not include industrial hemp.

MARIHUANA SALES LOCATION — Refers to a provisioning center, retailer, microbusiness or Class A microbusiness.

MARIHUANA-INFUSED PRODUCT — A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption.

MARIHUANA-RELATED BUSINESS — An adult-use marihuana establishment operating pursuant to a special license issued by the Department, and includes designated consumption lounges, excess marihuana growers, Class A microbusinesses, marihuana event organizers, temporary marihuana events, and marihuana educational research facilities.

MATURE MARIHUANA PLANT — A flowering or nonflowering marihuana plant that has taken root and is taller than eight inches from the growing or cultivating medium or wider than eight inches, produced from a cutting, clipping, tissue culture, or seedling, and that is in a growing or cultivating medium or a growing or cultivating container.

MICHIGAN MEDICAL MARIHUANA ACT or MMMA — 2008 Initiated Law 1, MCLA § 333.26421 et seq., as may be amended.

MICHIGAN MEDICAL MARIHUANA FACILITIES LICENSING ACT or MMFLA — Public Act 281 of 20A:14



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2016, MCLA § 333.27101 et seq., as may be amended.

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MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT or MRTMA — 2018 Initiated Law 1, MCLA § 333.27951 et seq., as may be amended.

MICROBUSINESS — A marihuana establishment authorized to cultivate not more than 150 mature marihuana plants, process and package marihuana, and sell or transfer marihuana to individuals 21 years of age and older and to a safety compliance facility, but not to other marihuana establishments.

MICROBUSINESS, CLASS A or CLASS A MICROBUSINESS — A marihuana establishment authorized to operate at a single location and cultivate not more than 300 mature marihuana plants; package marihuana; purchase marihuana concentrate and marihuana-infused products from licensed marihuana processors; sell or transfer marihuana and marihuana-infused products to individuals 21 years of age and older; and transfer marihuana to a safety compliance facility for testing.

OPERATING PERMIT or PERMIT — The permit issued pursuant to this chapter authorizing the operation of a marihuana commercial business in the City.

PERMITTEE — A person who holds a permit issued by the City pursuant to this chapter to operate a marihuana business.

PERSON — An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity, and includes persons within the definition of "applicant" as that term is used in this chapter.

PROCESS or PROCESSING — The separation or preparation of parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

PROCESSOR — A licensee that purchases or obtains marihuana from a grower and processes the marihuana and sells or transfers it in packaged form to a provisioning center, retailer, Class A microbusiness, or another processor. A processor is not prohibited from handling, processing, marketing or brokering industrial hemp pursuant to the Industrial Hemp Research and Development Act.

PROVISIONING CENTER — A licensee that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. "Provisioning center" includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers and includes medical cannabis dispensaries. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the Department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this chapter.

REGISTERED PRIMARY CAREGIVER or CAREGIVER — A primary caregiver who has been issued a current registry identification card under the MMMA.

REGISTERED QUALIFYING PATIENT or PATIENT — A qualifying patient who has been issued a current registry identification card under the MMMA or a visiting qualifying patient as that term is defined in the MMMA.

RETAILER — A licensee that obtains marihuana from marihuana establishments and sells or otherwise transfers marihuana to marihuana establishments and to individuals who are 21 years of age or older.

RULES — The administrative rules promulgated and from time to time amended by the Department to implement the MMFLA and MRTMA.

SAFETY COMPLIANCE FACILITY — A licensee that receives marihuana from a marihuana business or from a registered primary caregiver, tests the marihuana and provides certification of the potency of tetrahydrocannabinol and other cannabinoids, and the presence of contaminants. A safety compliance facility may receive industrial hemp for testing pursuant to the Industrial Hemp Research and Development Act.

§ 20B-3 SECURE TRANSPORTER — A licensee that may store marihuana and transports marihuana between § 20B-3  
marihuana businesses for a fee.

SOCIAL EQUITY-QUALIFIED BUSINESS — A marihuana establishment operated by an applicant that qualifies for the benefits offered under the social equity program administered by either the Department or the City.

STATE OPERATING LICENSE or LICENSE — A license that is issued by the Department under the MMFLA or MRTMA that allows the licensee to operate a marihuana commercial business, as specified in the license.

**ARTICLE II**  
**Licensing of Marihuana Businesses**

**§ 20B-4. Number of permitted businesses.**

A. The maximum number of each type of medical marihuana facility permitted in the City is as follows:

Type of Facility	Number
Grower	No limit
Processor	No limit
Secure transporter	No limit
Provisioning center	No limit
Safety compliance facility	No limit

B. The maximum number of each type of adult-use marihuana establishment permitted in the City is as follows:

Type of Establishment	
Grower	No limit
Processor	No limit
Secure transporter	No limit
Retailer	No limit
Microbusiness	No limit
Safety compliance facility	No limit
Marihuana-related businesses:	
Designated consumption lounge	No limit
Marihuana event organizer	Not presently permitted
Temporary marihuana event	Not presently permitted
Excess grower	No limit
Class A microbusiness	Not presently permitted
Marihuana education research facility	Not presently permitted

**§ 20B-5. Local permit and annual fee required; exception.**

- A. No person shall establish or operate a marihuana commercial business in the City without first having obtained a permit from the City and a state operating license for each such marihuana business to be operated. Permit and license certificates shall be kept current and publicly displayed within the business. Failure to maintain or display current state and City certificates is a violation of this chapter.
- B. There shall be an annual nonrefundable local permit fee to defray the administrative and enforcement costs associated with marihuana businesses located in the City of not more than \$5,000 per licensed business as set by resolution adopted by the City Commission.
- C. The annual nonrefundable local permit fee required under this section is due and payable with the application for a permit and upon the application for renewal of any such permit under this chapter. The permit and fee

§ 20B-5 requirements of this chapter apply to all marihuana commercial businesses, whether operated for profit or not for profit. § 20B-7

- D. The local permit fee requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any state regulatory agency, or by City ordinance, including, by way of example, and not limited to, any applicable fees for site plan review, zoning review, inspections, or building permits.
- E. The issuance of any permit pursuant to this chapter does not create an exception, defense, or immunity to any person regarding any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law.
- F. A separate permit is required for each marihuana business located at a premises from which a marihuana commercial business is operated. Operation of a grower and processor facility at the same location is authorized, provided that each facility is separately licensed and permitted. Operation of a provisioning center and/or retailer at the same location as a grower or processing facility is authorized when in conformance with the City Zoning Ordinances.
- G. This chapter is not applicable to a registered primary caregiver operating a medical marihuana home occupation in accordance with the City Zoning Ordinances.

**§ 20B-6. Location criteria.**

- A. No marihuana business is eligible to receive a permit unless at the time the application for the marihuana business operating permit is submitted, the location of the proposed business operation complies with the requirements set forth in the City Zoning Ordinances as required for the specific type of marihuana commercial business for which the permit is being sought.
- B. Mobile marihuana businesses and limited contact transaction operations, except for curbside service in a designated area at a marihuana sales location in compliance with applicable Department-issued rules and the City Zoning Ordinance, are prohibited.
- C. A licensee shall not operate a marihuana business at any place in the City other than at the address provided in the application on file with the City Clerk. A permit issued under this chapter may be transferred to a different location upon receiving written approval from the City Clerk. In order to request approval to transfer the location of a permit, the licensee must make a written request to the City Clerk, indicating the current license location and the proposed license location. Upon receiving the written request, the City Clerk will forward a copy of the request to affected service areas and departments of the City to determine whether the proposed location complies with all applicable laws, rules and regulations. No permit transfer will be approved unless the proposed location meets the standards identified in this chapter and the City Zoning Ordinances.

**§ 20B-7. General permit application requirements.**

- A. A person seeking a permit pursuant to licensure by the state under the provisions of the Medical Marihuana Facilities Licensing Act or the Michigan Regulation and Taxation of Marihuana Act and the provisions of this chapter must submit an application in writing to the City Clerk on forms provided by the City. At the time of application, the application must be accompanied by a nonrefundable application fee to defray the costs incurred by the City for processing of the application. In addition, the applicant shall present a suitable copy of government-issued photographic identification to accompany the application.
- B. The applicant must also provide the following information, under the penalty of perjury, on the City-provided form for the applicant, the proposed manager of the marihuana facility, and all persons who are true parties of interest in the marihuana business that is the subject of the application:

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- (1) If the applicant is an individual or sole proprietorship, the proprietor and their spouse, if any, shall provide their name, address, date of birth, business address, business telephone number, email address, social security number, and, if applicable, federal tax identification number;
- (2) If the applicant is not an individual or sole proprietorship, information regarding the business entity, including, without limitation, the name and address of the entity, website address (if any), type of business organization, proof of registration with, or a certificate of good standing from, the State of Michigan, as applicable, and the names, dates of birth, addresses, email addresses, phone numbers of each applicant, and the federal tax identification number of the business entity;
- (3) The identity of every person having an ownership or beneficial interest of more than 10% in the applicant with respect to which the license is sought; provided, however, a social equity-qualified business must be able to demonstrate 51% or more ownership by qualifying applicants;
- (4) Proof that the Department has granted the applicant prequalification status;
- (5) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a marihuana business;
- (6) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises;
- (7) A description of the type of the proposed marihuana commercial operation and its physical address;
- (8) A to-scale diagram of the proposed licensed premises, no larger than 11 inches by 17 inches, showing, without limitation, building floor plan and layout, all entryways, doorways, or passageways, and means of public entry and exits to the proposed licensed premises, loading zones, available on-site parking spaces, fencing at the premises, and all areas in which marihuana will be stored, grown, manufactured or dispensed;
- (9) A lighting plan showing the lighting outside of the marihuana business for security purposes and compliance with applicable City outdoor lighting requirements;
- (10) A staffing plan which describes the anticipated or actual number of employees, including an estimate of the number and type of jobs that the business is expected to create, and the amount and type of compensation (including benefits) expected to be paid for such jobs;
- (11) An explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents to be achieved by the facility, including plans for community outreach and worker training programs, through the grant of a marihuana business permit;
- (12) A statement that no applicant is in default to the City for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the City;
- (13) A statement that the applicant has reviewed and agrees to conform its hiring and public accommodation practices to the City's Nondiscrimination Ordinance provisions as set forth in Chapter 18 of this Kalamazoo City Code;
- (14) A social equity plan that a) promotes and encourages participation in the marihuana industry by local residents that have been disproportionately impacted by marihuana prohibition and enforcement, and b) positively impacts local residents;
- (15) A statement that no applicant or true party of interest is ineligible from holding a state license to operate a marihuana commercial business;
- (16) Attestation that the applicant consents to inspections, examinations, searches and seizures required or

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undertaken pursuant to enforcement of this chapter; and

(17) Any additional information that the City Clerk, Public Safety Chief, or City Planner or their designees reasonably determine to be necessary in connection with the investigation and review of the application.

- C. Upon receipt of a completed application, the City Clerk may circulate the application to all affected service areas and departments of the City to determine whether the application is in full compliance with all applicable laws, rules and regulations.
- D. If the City Clerk identifies or is informed of a deficiency in an application, the applicant has five business days to correct the deficiency after notification by the City Clerk.

**§ 20B-8. Denial of application.**

- A. The City Clerk shall reject any application that does not meet the requirements of the MMFLA, the MRTMA, the Rules, or this chapter. The City Clerk shall reject any application that contains any false, misleading, or incomplete information.
- B. An applicant whose application is rejected or denied because of missing, incomplete, erroneous, false, or misleading information, or because of a lack of submission of the full amount of the fees due, does not have a right to appeal the decision of the City Clerk, whose decision is final.

**§ 20B-9. Issuance of provisional approval certificate.**

- A. Beginning June 1, 2020, the City Clerk will begin to accept permit applications for City-issued marijuana commercial business operating permits. A marijuana business whose inspection, background checks, and all other information available to the City verifies that the applicant has submitted a full and complete application, has made or has secured permits for making improvements to the business location consistent with the type of facility applied for, complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, will be reviewed by the office of the City Clerk for completeness and compliance with the requirements of this chapter.
- B. The City Clerk shall issue a provisional marijuana business approval certificate to each applicant whose application is complete and if the inspection, background checks, and all other information available to the City verify that the applicant complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, and in compliance with the City Code of Ordinances and any other applicable law, rule, or regulation.
- C. The applicant shall not locate or operate a marijuana business in the City without obtaining a state operating license approved by and issued by the Department. A provisional certificate issued by the City will expire and be void after two years, or on the date that state approval is denied by a final order to the applicant, whichever first occurs.
- D. (Reserved)
- E. If the Department issues a final determination denying an applicant a state operating license, then the provisional approval certificate will be canceled by the City Clerk.
- F. Provisional certificates are not transferable to another person or entity without the submission of a local permit application by the person or entity to whom the certificate is to be transferred and the approval of the City Clerk.

**§ 20B-10. Issuance of City marijuana business operating permit.**

- A. An applicant holding an unexpired provisional certificate issued pursuant to this chapter and for which a marijuana facility or marijuana establishment state operating license has been issued shall provide proof of

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same to the City Clerk.

- B. An inspection of the proposed marihuana business by the City is required prior to issuance of the City operating permit. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any marihuana or marihuana-infused product, and prior to the opening of the business or commencement of operations, unless the applicant holds a state operating license and is seeking a permit for an equivalent license. The inspection is to verify that the business premises are constructed and can be occupied in accordance with the application submitted and the applicable requirements of this chapter and any other applicable law, rule, or regulation.
- C. After verification that the business premises are constructed and can be occupied in accordance with the application submitted and the applicable requirements of this chapter and any other applicable law, rule, or regulation, and the issuance of a temporary or permanent certificate of occupancy for the building, the City Clerk shall issue a City marihuana business operating permit for a term of one year. The City-issued permit must be prominently displayed within the business.
- D. Maintaining a valid state operating license is a condition for the issuance and maintenance of the City marihuana business operating permit issued under this chapter and the continued operation of any marihuana business.
- E. Proof of insurance.
- (1) A permittee shall at all times maintain in full force and effect, for duration of the permit, workers' compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and an aggregate limit of \$2,000,000 issued from a company licensed to do business in Michigan having an AM Best rating of at least B++. A permittee shall provide proof of insurance to the City Clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. The policy shall name the City of Kalamazoo and its officials and employees as additional insureds to the limits required by this section. A permittee or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of the insurer's notification to that effect. The permittee shall obtain and submit proof of substitute insurance to the City Clerk within five business days in the event of expiration or cancellation of coverage.
  - (2) A secure transporter must provide proof of no-fault automobile insurance with a company licensed to do business in Michigan with limits of liability not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage, vehicle registration, and registration as a commercial motor vehicle for all vehicles used to transport marihuana or marihuana-infused products.
  - (3) Any failure to maintain or lapse in the insurance coverage required by this chapter is grounds for revocation of the City-issued operating permit.
- F. A condition of the issuance of a marihuana business operating permit includes, at a minimum, operation of the business in compliance with all the plans and the information provided to the City as part of the application. A permittee must update any material change in the information provided to the City as part of the application within 10 business days of such change during the term of the permit. The failure to timely update a material change in information will be grounds for suspension or revocation of the operating permit. The term "material change" includes, but is not limited to:
- (1) Any change in owners, officers, members or managers;
  - (2) The addition or removal of a person named in the application for the local permit;
  - (3) Change in the name of the business;

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- (4) Any proposed transfer, sale, or other conveyance of an interest in the business or the business license;
  - (5) Any modification to the business premises which requires an inspection under the applicable code, alteration of ingress or egress, or changes that impact security, fire safety, or building safety;
  - (6) Any criminal charges and convictions, or civil judgements against the permittee in this state or any other jurisdiction;
  - (7) Any regulatory sanction disciplinary action taken against the permittee in this state or any other jurisdiction;
  - (8) The initiation or conclusion of any judgement, lawsuit, legal or bankruptcy proceeding, or governmental investigation of the permittee or a true party of interest in the business; or
  - (9) Any court-appointed conservator, receiver, or trustee of the permittee.

**§ 20B-11. Permit forfeiture.**

In the event that a marihuana business does not commence and maintain regular operations within one year of issuance of a City operating permit, the permit will be deemed forfeited; the business may not recommence operations and the permit is not eligible for renewal.

**§ 20B-12. Permit renewal.**

- A. A valid marihuana business operating permit may be renewed on an annual basis by submission of a renewal application upon a form provided by the City Clerk and payment of the annual license fee set by City Commission resolution. An application to renew a marihuana business operating permit shall be filed no sooner than 120 days and no later than 75 days prior to the date of its expiration. Upon receipt of a timely filed application of renewal, the City Clerk, in consultation with EDC staff, may extend the term of the expiring permit for up to 90 additional days, at no cost to the permittee, to allow for the orderly consideration of the request for renewal. The failure to timely file for renewal is sufficient grounds to deny renewal of a permit to operate a marihuana business in the City and is not subject to appeal.
- B. Prior to the issuance of a renewed marihuana business operating permit by the City, the premises must be inspected to assure that it and its systems comply with the requirements of this chapter and all other applicable City codes and ordinances.
- C. In determining whether to grant a renewal of a permit, the members of the City's Economic Development Corporation Board will evaluate the permit holder's compliance with the statements it provided with its initial application and submission with its request for renewal of the following information:
  - (1) The staffing plan for the business, which describes the actual number of employees, including the number and type of jobs that the facility has created, and the amount and type of compensation (including benefits) paid for such jobs;
  - (2) An explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents achieved by the business, results of efforts for community outreach and worker training programs;
  - (3) An explanation, with supporting factual data, of the efforts and success achieved by the social equity plan of the business to promote and encourage participation in the marihuana industry by local residents that have been disproportionately impacted by marihuana prohibition and enforcement, and the positive impact of the social equity plan on local residents;
  - (4) A statement that the business is not in default to the City for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the City;



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- (5) A statement that the hiring and public accommodation practices of the facility conform to the City's Nondiscrimination Ordinance provisions and documentation of the total number of employees broken out by managerial and operational employees, number of women and number of minority employees and number of employees disproportionately impacted by marihuana prohibition and enforcement;
- (6) A statement, with supporting documentation, providing answers to the following questions:
- (a) How many City residents do you currently employ?
  - (b) How many current employees reside in Census Tracts 1 (Eastside); 9, 10 (Edison) and/or 2.02, 3 (Northside)?
  - (c) What is your plan to employ residents of the identified census tracts?
  - (d) How many of your employees have prior marihuana convictions (excepting a conviction for delivery or distribution to a minor)?
  - (e) What is your plan for employees with a prior marihuana conviction to move up within your business and/or the marihuana industry?
- (7) Proof that the marihuana business has received recognition and maintains the status as a Silver Level Social Equity All-Star or better with the Michigan Cannabis Regulatory Agency.
- D. If a permittee demonstrates compliance with the requirements for renewal of an operating permit, the City Clerk shall renew the existing permit for a period of one year, on the condition that the state operating license for the facility is renewed. However, in its discretion, the EDC Board may recommend that the City Clerk issue a single ninety-day probationary renewal based upon a finding that the permittee has documented violations of City codes or ordinances for which the permittee has presented a written plan for correction of all violations which is determined by the EDC Board to be an acceptable resolution of the violations. If the City Clerk determines that the violations have been cured within the ninety-day probationary period, a one-year renewal of the permit will be issued, which shall include the ninety-day probationary period. If the violations are not cured within the ninety-day probationary period, the City Clerk will issue a notice of permit denial to the permittee.
- E. If a permittee demonstrates full compliance with the requirements for the renewal of an operating permit, with no documented pending violations of City codes or ordinances, and the permittee has achieved Gold Level Social Equity All-Star status with the Cannabis Regulatory Agency, the City Clerk shall renew the existing permit for a period of two years on the condition that the state operating license for the facility is maintained.

**§ 20B-13. Transfer of permit.**

- A. A marihuana business permit is valid only for the owner named thereon, the type of business disclosed on the application for the permit, and the location for which the permit is issued.
- B. Each operating permit is exclusive to the permittee. An applicant seeking to acquire a marihuana business must apply for a new permit with the City Clerk before an existing permit is rescinded. The attempted transfer, sale, or other conveyance of an interest in a permit without prior application for a City operating permit with the City Clerk is grounds for suspension or revocation of the existing permit and denial of a permit to the proposed new owner of the marihuana business.

**§ 20B-14. Permit as revocable privilege.**

An operating permit granted by this chapter is a revocable privilege granted by the City and is not a property right. The granting of a permit under this chapter does not create or vest any right, title, franchise, or other property interest. The production, processing and sale of marihuana is a highly regulated industry; therefore, strict compliance with the provisions of this chapter is required by holders of a City-issued operating permit.

**§ 20B-15. Nonrenewal, suspension or revocation of permit.**

- A. The City Clerk may, after notice and hearing, suspend, revoke or refuse to renew a permit for any of the following reasons:
- (1) The permit holder, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions or provisions of this chapter or with any applicable state or local law or regulation;
  - (2) The permit holder, or its agent, manager or employee, has failed to comply with any special terms or conditions of its license or permit pursuant to an order of the state or the City as the local permitting authority, including those terms and conditions that were established at the time of issuance of the license or probational renewal and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license by the state;
  - (3) The Economic Development Corporation Board determined that the permit holder did not meet or failed to comply with one or more of the requirements set forth at § 20B-12C;
  - (4) The marihuana commercial business has been operated in a manner that adversely affects the local public health, safety or welfare; or
  - (5) The permit holder failed to timely submit all necessary documents and/or fees to renew the City-issued permit or state operating license.
- B. Evidence to support a finding under this section may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises of the marihuana business or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the marihuana business, or an ongoing nuisance condition emanating from or caused by the marihuana business. Criminal conduct is limited to the violation of a state law or regulation or City ordinance.
- C. Except as otherwise provided in this chapter, the Planning Commission shall hear and decide questions that arise in the administration of this chapter, including appeals of suspension and revocations of City operating permits. The concurring vote of a majority of the members present of the Planning Commission is necessary to reverse an order, requirement, decision, or determination of an administrative official in the application of this chapter. The decision of the Planning Commission is final. This section is not to be construed to grant the Planning Commission authority to hear any matter that is within the powers and duties of the Zoning Board of Appeals.

ARTICLE III  
**Specific Marihuana Business Requirements**

**§ 20B-16. Grower classes.**

A grower may not hold more than one class of grower state operating license. A grower may hold more than one Class C grower license at a single location. A qualifying grower may hold an excess grower license.

**§ 20B-17. Separation of licensed premises.**

A grower, processor, and retailer or an equivalent license in the same location are separate marihuana commercial businesses requiring separate licenses and separate permits. In addition to all other application requirements for separate businesses, each business, if sharing a building or structure, shall be distinctly partitioned from each other from floor to roof, have separate operations, ventilation, security and fire suppression systems, and separate entrances and exits.

**§ 20B-18. Secure transporter.**

- A. A secure transporter which operates from a premises located within the City shall secure a permit from the City. A state-licensed secure transporter which does not have a facility located in the City may, without securing a license from the City, operate on public streets and highways within the City.
- B. A driver transporting marihuana or marihuana-infused products must possess a valid operator's license issued by the state.
- C. Each vehicle engaged in the transportation of marihuana or marihuana-infused products must always be operated by a two-person crew with at least one individual remaining with the vehicle.
- D. A secure transporting vehicle must not bear any markings or any other indication that it is carrying marihuana or marihuana-infused products.

**§ 20B-19. Provisioning centers and retailers.**

- A. The licensee, manager, operator and employees of a provisioning center or retailer shall strictly comply with all rules addressing security (including but not limited to an operating video surveillance system), storage of marihuana and marihuana-infused products to prevent direct customer access and use of a separate room as a point of sale area.
- B. It is unlawful for the licensee, manager, operator or employees of a provisioning center or retailer to:
  - (1) Permit the sale, consumption, or use of alcohol beverages or tobacco products on the licensed premises or engage in food service on the licensed premises (As used in this subsection, "food service" means the preparation of food or drink for direct consumption by members of the public through service on the premises.);
  - (2) Sell, give, dispense or otherwise distribute marihuana, marihuana-infused products, or marihuana paraphernalia from any outdoor location on the licensed premises;
  - (3) Offer or distribute samples of marihuana or marihuana-infused products to a consumer free of charge.
  - (4) Permit the use, consumption, or inhalation of marihuana or marihuana-infused products on the licensed premises.
  - (5) Operate a licensed provisioning center or retailer at any time other than between the hours of 7:00 a.m. and 10:00 p.m. daily.

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(6) Keep or grow marihuana plants within the provisioning center or retailer premises.

- C. Registered patients and registered primary caregivers with valid registry cards and persons 21 years of age and older are permitted in a dedicated point of sale area; a separate waiting area may be created for visitors not authorized to enter the marihuana business. Provisioning centers and retailers shall be wheelchair accessible, and disability accommodations shall be provided upon request.
- D. Provisioning centers and retailers may engage in online and home delivery of marihuana and marihuana-infused products in strict compliance with Department-approved procedures and rules.
- E. (Reserved)
- F. Provisioning centers and retailers shall prominently display a sign near the point of sale area which carries the following warning:

WARNING: Marihuana use by pregnant or breastfeeding women, or by women planning to become pregnant, may result in fetal injury, preterm birth, low birth weight, or developmental problems for the child.

**§ 20B-20. Other marihuana-related businesses.**

- A. A microbusiness and Class A microbusiness are subject to all applicable provisions in this chapter related to growers, processors, and retailers.
- B. A designated consumption lounge shall:
  - (1) Install and maintain an operable ventilation and filtration system to remove smoke to the outside of the building and eliminate odor at the property line of the premises if consumption of marihuana by inhalation is permitted.
  - (2) Not engage in the sale, consumption, preparation, or serving of food unless the business has obtained the required authorization from the Kalamazoo County Health Department.
  - (3) Not engage in the sale, consumption or serving of alcoholic beverages.
  - (4) Prominently display a sign near the entrance of the business which carries the following warning:

WARNING: Marihuana use by pregnant or breastfeeding women, or by women planning to become pregnant, may result in fetal injury, preterm birth, low birth weight, or developmental problems for the child.

ARTICLE IV  
**General Requirements**

**§ 20B-21. Compliance with rules; inspections.**

- A. A permittee shall strictly comply with the rules that may from time to time be promulgated by the Department.
- B. All marihuana commercial businesses shall obtain all other required permits or licenses related to the operation of the marihuana business, including, without limitation, any site plan approvals or building permits required by any applicable code or ordinance.
- C. Any failure by a permittee to comply with Department rules or the provisions of this chapter is a violation of this chapter, and any infraction or violation, however slight, is sufficient grounds for suspension and revocation of the permit issued under this chapter.

**§ 20B-22. Signage and advertising.**

- A. All signage and advertising for a marihuana business shall comply with all applicable provisions of this Code and the City Zoning Code. In addition, it shall be unlawful for any licensee to:
  - (1) Use advertising material that is misleading, deceptive or false; or
  - (2) As evidenced by the content of the advertising material or by the medium or the manner by which the advertising material is disseminated, is designed to appeal to individuals age 20 or younger.
- B. Only one sign per street frontage, which complies with the size restrictions set forth in the City Zoning Code, is permitted for a provisioning center, retailer, microbusiness, Class A microbusiness, or safety compliance center. Neon or gas-lighted and flashing signs are prohibited.

**§ 20B-23. Security requirements.**

- A. Security measures at all licensed premises must comply with the requirements of all applicable rules and regulations promulgated by the Department.
- B. Prior to commencing operations, a description of the security plan for the business must be submitted to the Department of Public Safety. The security plan shall include details of the video surveillance system to be employed at the business and procedures that meet or exceed applicable state rules addressing security.
- C. The security system is required to be maintained in good working order and provide continuous twenty-four-hour-per-day recorded coverage. A separate security system is required for each business.

**§ 20B-24. Fire suppression; hazardous materials.**

- A. A marihuana business is required to install a fire suppression system and fire alarm system for the premises which meets the requirements imposed by applicable law, rule, or regulation. Unless a higher standard is required by applicable law or regulation, there must be a minimum of a one-hour fire separation between a marihuana business and any adjacent business.
- B. A description of all toxic, flammable, or other materials, including all chemical compounds and pesticides used for cultivation, processing or testing of marihuana that will be used or kept at the premises, specifying the location of such materials on the premises, and how such materials will be stored and disposed of, shall be filed with the Fire Marshal prior to the marihuana business commencing operations.

**§ 20B-25. Waste management.**

- A. A marihuana business is required to institute and employ waste management protocols and practices that

§ 20B-25 comply with applicable rules and regulations that includes a plan for disposal of any marihuana or marihuana-infused product that is not sold, and any portion of a plant or the residue from any grow, production or testing process that precludes any portion being disposed of from being possessed or ingested by any person or animal. § 20B-29

B. If determined as being necessary by the Director of Public Services, wastewater generated from the cultivation or processing of marihuana or marihuana-infused products may require pretreatment before introduction in the City wastewater system.

**§ 20B-26. Visibility of activities.**

- A. All activities of marihuana commercial operations shall be conducted indoors and out of public view, except cultivation may occur in an outdoor area, provided that the area is contiguous with the building containing the marihuana business operations, fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view, with no marihuana plants growing above the height of the fence or barrier and the fences are secured and only accessible to authorized persons and emergency personnel.
- B. No marihuana, marihuana-infused product, or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

**§ 20B-27. Odor control.**

- A. Growers, processors, and safety compliance facilities are required to install and maintain in operable condition an appropriate exhaust ventilation system which precludes the emission of detectable marihuana odor resulting from any grow or production process or operations from the premises. Exhaust and ventilation equipment must be installed, operated, and maintained in compliance with the Michigan Mechanical Code, R 408.30901 et seq.
- B. No marihuana business shall permit the emission of marihuana odor resulting in detectable odors that leave the business premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
- C. Whether a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

**§ 20B-28. Reports of crime.**

Reports of all criminal activities or attempts of violation of any law at the marihuana business or related thereto shall be reported to the Kalamazoo Department of Public Safety within 24 hours of occurrence, or its discovery, whichever is sooner. The failure to timely report criminal activity is a violation of this chapter and may result in sanctions up to and including the suspension, revocation or nonrenewal of the business's City operating permit.

**§ 20B-29. Inspection of licensed premises.**

- A. During all business hours and other times when the premises are occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by the Department of Public Safety and all other City departments for the purpose of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations.
- B. Consent to inspection. Application for a marihuana business permit or operation of a marihuana business, or leasing property to a marihuana business, constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property, to permit the City Manager or the designee thereof to conduct routine examinations and inspections of the medical marihuana business to ensure compliance with this chapter or any other applicable law, rule, or regulation. For purposes of this chapter, examinations and inspections of marihuana businesses and recordings from security cameras in such businesses are part of the

§ 20B-29 routine policy of enforcement of this chapter for the purpose of protecting the public safety, individuals § 20B-32 operating and using the services of the marihuana business, and the adjoining properties and neighborhood.

- C. Application for a marihuana business permit constitutes consent to the examination and inspection of the business as a public premises without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a marihuana business permit without a search warrant.
- D. A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct a law enforcement officer or a City inspector or investigator in the course of making an examination or inspection of the licensed premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this chapter, the MMFLA, MRTMA, or applicable state administrative rules.

**§ 20B-30. Other laws remain applicable.**

To the extent the state adopts in the future any additional or stricter law or regulation governing the sale or distribution of marihuana, the additional or stricter regulation shall control the establishment or operation of any marihuana commercial business in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any permit under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any permit issued hereunder.

**§ 20B-31. Grant of administrative authority.**

The City Clerk is granted the power and duty to fully and effectively implement and administer the permit application process and issuance of provisional approval certificates and operating permits issued by the City under this chapter. The City Clerk, after consultation with other City departments, shall promulgate such rules as necessary to implement and administer this chapter.

**§ 20B-32. Violations and penalties.**

- A. Any person, including, but not limited to, any licensee, manager or employee of a marihuana commercial operation, or any customer of such business, who violates any of the provisions of this chapter shall be responsible for a municipal civil infraction punishable by a civil fine of \$500, plus court-imposed costs and any other relief that may be imposed by the court.
- B. In addition to any civil fine imposed for a municipal civil infraction violation, a violation of this chapter shall also be sufficient grounds for the suspension, revocation or nonrenewal of the City operating permit.
- C. In addition to the possible denial, suspension, revocation or nonrenewal of the permit issued under the provisions of this chapter, the City Attorney is authorized to seek such other relief that may be available and provided by law or equity, including filing a public nuisance action or seeking injunctive relief against a person alleged to be in violation of this chapter or the City Zoning Code.





**Chapter 21**  
**NUISANCES**



§ 20B-32

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 4-15-2019 by Ord. No. 1982.106**

§ 20B-32

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**Amendments noted where applicable.]**

#### GENERAL REFERENCES

Animals and fowl — See Ch. 7.

Nuisances generally, §§ 22-3 — 22-5.

Peddlers — See Ch. 25.

Unnecessary noise from swimming pools — See § 34-11C.

Provisions of Traffic Code relative to vehicle horns and other warning devices — See § 36-55.

Provisions of Traffic Code relative to mufflers — See § 36-66.



ARTICLE I  
In General

**§ 21-1. Findings and declarations of fact; purpose of chapter.**

The City Commission finds and declares that the necessity in the public interest for the provisions and prohibitions hereinafter contained in this chapter is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and the peace and quiet of the inhabitants of the City of Kalamazoo.

**§ 21-2. Definitions.**

As used within this chapter, the following terms shall have the meanings indicated:

**AMBIENCE** — Surrounding or background noise associated with a given environment, usually a composite of sounds from many sources.

**ANY PERSON** — When referring to persons intended to be protected by the provisions of this chapter, shall mean a reasonable person of normal sensitiveness.

**BLIGHTED STRUCTURE OR BUILDING** — Any dwelling, garage, accessory or outbuilding, or any factory, shop, store, office building, warehouse, or any other structure or part of a structure which has one or more of the following:

- A. Is no longer habitable as a dwelling or useful for the purpose for which it was originally intended because of fire, wind, other natural disaster, or physical deterioration;
- B. Is partially completed and which is not presently being constructed under an existing, valid building permit issued by or under the authority of the City;
- C. Is not structurally sound, weathertight, waterproof or verminproof;
- D. Is not covered by a water-resistant paint or other waterproof covering so as to protect said structure from the adverse effects of the elements or from physical deterioration;
- E. Causes or tends to cause devaluation of the subject property or other properties in the area; or
- F. Which has any of the following conditions:
  - (1) Peeling paint.
  - (2) Sagging and deteriorating roof.
  - (3) Missing and/or damaged siding.
  - (4) Broken or deteriorating window.
  - (5) Unfinished exterior.
  - (6) Collapsing or collapsed porch or deck.
  - (7) Cracked and broken foundation/chimney.
  - (8) The presence of graffiti.
- G. If a vacant, abandoned and/or condemned building or structure that has been vacant, abandoned and/or condemned for more than 30 days, see "vacant blighted structures."

§ 21-2 BUILDING MATERIAL — Any lumber, bricks, concrete, cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, cement, nails, screws, or other materials commonly used in the construction or repair of any buildings or structures. § 21-2

COMBINATION VEHICLE — Any combination of truck, truck tractor, trailer, semitrailer or pole trailer used upon the highways or streets in the transportation of passengers or property.

COMMERCIAL ZONE — A City zoning district designated to accommodate a variety of commercial uses as well as duplex, multi-family, public, and civic uses.

DB(A) — The sound pressure level in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI S1.4-1971, for a Type 2 Instrument.

DECIBEL — A unit of sound level on a logarithmic scale measured relative to the threshold of audible sound by the human ear, in compliance with American National Standards Institute standard S1.1-1960.

EMERGENCY WORK — Work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or potential danger.

EXHAUST SYSTEM — The system comprised of a combination of components which provides for enclosed flow of exhaust gas from engine parts to the atmosphere.

GROSS VEHICLE WEIGHT RATING — The value specified by the manufacturer as the loaded weight of a vehicle.

GRAFFITI — Writings, markings, etchings, carvings, tagging, slogans, symbols, pictures on public or private property that are illicitly written, spraypainted, or sketched on any structure, fence, wall or other surface visible from a public place or neighboring property.

HARMONIC OR PURE TONES — Sounds which have a specific frequency or pitch associated with them.

IMPULSIVE SOUNDS — Very short duration, although they may be repeated at regular or irregular intervals, such as gun shots or automobile backfire sounds.

JUNK — Any abandoned, discarded, unusable objects or equipment, any object or equipment unused for its originally intended purpose, including, but not limited to, furniture, furniture intended for indoor use which is placed outdoors, stoves, refrigerators, freezers, cans, barrels, implements, parts of motor vehicles, machinery, cloth, rubber, bottles, any metals, boxes, cartons or crates.

JUNK AUTOMOBILE — Includes any motor vehicle that is kept, parked or stored, other than in a completely enclosed building, and is not in operating condition, is not properly licensed or is incapable of performing the transportation function for which it was manufactured. The term "junk vehicle" does not include a motor vehicle ordinarily used, but temporarily out of running condition.

MAINTAINED — Ongoing care and attention, such as weeding, watering or trimming or any other affirmative acts which make it clear that the vegetation is not the result of mere neglect.

MANUFACTURING ZONE — A City zoning district designed to accommodate industrial and manufacturing uses and activities.

MOTOR VEHICLE or VEHICLE — Any vehicle that is self-propelled and includes industrial and construction equipment which is not subject to registration under the Michigan Vehicle Code, being Public Act 300 of 1949. The term does not include special mobile equipment.

MUFFLER — A device for abating the sound of escaping gases of an internal combustion engine.

NOISE — Any sound.

NOXIOUS WEEDS — Refers to poison ivy, poison sumac, poison oak, giant hogweed, nettles and/or ragweed.

NUISANCE PARTY — A social gathering or party, whether static or mobile, conducted on any public or private

§ 21-2 property within the City and which, by reason of the conduct of those persons in attendance, results in any one or more of the following conditions or events occurring on public or private property: § 21-2

- A. The unlawful sale, furnishing, possession, or consumption of alcoholic beverages;
- B. Urination or defecation on neighboring public or private property, or on the premises in view of another person;
- C. Unlawful deposit of trash or litter;
- D. Destruction of property;
- E. Unlawful vehicular traffic, or the unlawful stopping, standing or parking of vehicles, obstruction of the free flow of traffic or interference with the ability to render emergency services;
- F. Unlawful parking of vehicles within the public streets, alleys, or sidewalks, or upon private property;
- G. Unreasonably loud noise under the circumstances which disturbs the comfort, quiet or repose of one or more members of the neighborhood;
- H. Conduct or a condition which injures any person;
- I. Conduct or a condition which endangers the safety of persons or property in the neighborhood;
- J. Conduct or a condition which results in the indecent exposure of a person, or the display of graphic sexual behavior, whether real or simulated, to a member of the public not attending the social gathering or party;
- K. Unlawful sale, furnishing, manufacture, use, or possession of a controlled substance as defined by federal or state law.

RESIDENTIAL ZONE — A City zoning district designated to accommodate the development of single and two-family dwelling units, multiunit housing, mixed residential and commercial uses, and special purpose districts.

RESPONSIBLE PARTY — A person who violates any of the provisions of this chapter, whether as owner, occupant, lessee, agent, operator, servant, or employee shall, except as herein otherwise provided.

SPECIAL MOBILE EQUIPMENT — As defined at MCLA § 257.62

SPECIAL PURPOSE DISTRICT — A City zoning district designated to accommodate governmental and public service uses such as parks, schools and governmentally owned or controlled land and large institutional uses in campus-like settings such as colleges, hospitals and large religious assemblies.

TOTAL VEHICLE NOISE — Any noise radiating from a vehicle except for vehicle noises exempted by this chapter.

TRASH AND RUBBISH — Any and all forms of debris not herein otherwise classified.

VACANT BLIGHTED STRUCTURES — Any structure located within the City of Kalamazoo which is vacant and blighted, as defined in this chapter, for more than 30 days, and to which two or more of the following criteria applies:

- A. Is open to casual entry;
- B. Has one or more windows boarded;
- C. Has had any utilities required for occupancy disconnected;
- D. Is under notice for being in violation of Chapters 9 and/or 17 of the City Code of Ordinances; or
- E. Because of disrepair or lack of maintenance, is in a condition that makes it reasonably apparent to the public that the structure is in fact unoccupied.

§ 21-2  
WEEDS — Considered as any type of vegetation which is not customarily planted or transplanted or commercially sold for use in gardens or for landscaping. § 21-3

**§ 21-3. General public nuisances.**

- A. The following are declared to be public nuisances, and it shall be unlawful for any person owning, occupying or in control of any personal property, lot or land, either public or private, to allow, maintain or permit a nuisance:
- (1) Noxious weeds of any height. Any other weeds or grasses which have attained a height of eight inches or more; unless said vegetation is maintained as part of a garden/landscaped area.
    - (a) This subsection shall not apply to any parcel larger than one acre if, for the first 25 feet from any adjacent property or roadway, the parcel otherwise complies with this section.
    - (b) This subsection shall not apply to any place designated as a park, preserve or open space by the City.
  - (2) Any trash, garbage, rubbish, debris, waste or similar offensive or unsightly material.
  - (3) Any dead trees or shrubbery or any accumulation of dead vegetation, other than a managed compost and other than that which is properly placed for public or privately contracted collection. This subsection shall not apply to any place designated as a park, preserve or open space by the City.
  - (4) Any materials constituting a haven or hiding or nesting place for rats.
  - (5) Any unfilled basements, excavations or holes that could be dangerous to children coming upon the property, unless fenced or protected in a manner approved by the City Manager or his duly authorized representative.
  - (6) Unenclosed porches and decks visible from the public street or road fronting the property shall not be used as storage. In no case shall indoor interior furniture, trash, garbage, rubbish or debris be permitted to accumulate on porches or decks.
  - (7) Any substance listed below which is either left in an otherwise vacant building, been abandoned, or has been or is being used, possessed, maintained or disposed of in violation of a governing statute, ordinance, regulation, rule or order:
    - (a) Classified as hazardous, toxicant, a pollutant or contaminant by the State of Michigan or the United States; or
    - (b) Named in or covered by the categorical pretreatment standards set by the United States; or
    - (c) Regulated by the Fire Code adopted by Chapter 15 of the Kalamazoo Code; or
    - (d) Required by the City of Kalamazoo to be pretreated under Chapter 28 of the Kalamazoo Code.
  - (8) Graffiti.
  - (9) Dust emission from industrial or commercial establishments. It shall be unlawful for any person in charge or control of, or having general supervision of, the management and operation of any factory, mill or other industrial or commercial establishment in the City, to operate such establishment, or allow or permit it to be operated, in such manner that dust of any kind or character shall be emitted therefrom in such quantity or in such manner as to be dangerous, deleterious or harmful to the health and well-being of any person living, working or being in the vicinity thereof, or in such quantity or in such manner as to cause damage or injury to any property located in the vicinity thereof, or in such quantity or in such manner as to be in fact a nuisance.



- § 21-3
- § 21-4
- B. Notice. The City Manager, or his or her duly authorized representative, is authorized to notify, in writing, by regular mail or in person, the owner or person in control of any land within the City to remove or correct any condition constituting a violation of this section. An action shall be taken to remove or correct this violation within 10 days. In the event that the address of any such person is unknown, it shall be sufficient to post notice on said property.
- C. Appeal. Any person aggrieved by the terms of notice given pursuant to this section may appeal, in writing, within 10 days of the date of the notice. The appeal shall be first made to the duly authorized representative, and if necessary, the City Manager. In determining whether such notice should be confirmed, the City Manager or his or her duly authorized representative shall take into consideration any and all hazards, nuisances or influences adverse to adjoining property or persons occupying the same and all factors detrimental to the health, safety, peace, morals and welfare of persons within, about or adjacent to the premises. If the appeal is regarding the type of vegetation which may or may not constitute a nuisance, the aggrieved party shall be required to provide materials (including photos) which document the types, sizes and characteristics of the vegetation from a botanist, landscape architect or other professional in the field. The City, if necessary, may independently verify same. If the property owner does not abate, the City may abate pursuant to § 21-4 or take further legal action and the final decision can be made in a court of law. A property owner may appeal an administrative determination regarding vegetation to the Ad Hoc Weed Committee.
- D. Ad Hoc Weed Committee. An appeal to the Ad Hoc Weed Committee shall be scheduled within 30 days of the receipt by the City of said request. The property owners within 200 feet of the subject property shall be advised of the hearing, which shall be open to the public.
- (1) Said committee shall determine whether the vegetation at issue constitutes a public nuisance. Said decision shall be mailed (first class) to the person who requested the hearing. If three or more members of the committee determine that the vegetation does constitute a public nuisance, abatement action may be commenced seven calendar days after the decision is mailed. If three or more members of the committee determine that the vegetation does not constitute a public nuisance, no abatement action may be taken unless and until criminal action has been brought and a finding of responsibility obtained for violating this article.
  - (2) If three or more members of the committee determine that the vegetation at issue is a public nuisance, the committee may allow the owner up to seven calendar days to eliminate that vegetation which constitutes the public nuisance. The determination of whether the vegetation has been brought into compliance with this section shall be made (on or after the eighth day) by a City inspector, who shall communicate his/her determination to the committee's members. The inspector's determination shall stand unless a majority of the committee's members disagree.
  - (3) For the purpose of carrying out the provisions of this subsection, an Ad Hoc Weed Committee shall be created with five members. The members shall include a representative from the Kalamazoo Nature Center, a representative from the City of Kalamazoo Parks and Recreation Department, a representative from the Environmental Concerns Committee, a representative from the City of Kalamazoo Administration, and a registered landscape architect. The Committee shall be chaired by the representative of the Environmental Concerns Committee. The recording secretary will be furnished by the City to receive and distribute all meeting minutes and to perform other relevant functions. A majority of the members of the committee shall constitute a quorum.
- E. The foregoing notice and hearing requirements shall not apply in the event that the public nuisance constitutes an immediate danger to the public health, safety or welfare or if the public nuisance is located upon public lands. With regard to graffiti, this includes any type of markings that are offensive in nature and/or contain profanity, threats or explicit language.

**§ 21-4. Abatement by City.**

- § 21-4
- § 21-5
- A. If a condition in violation of article is not removed or corrected within 10 days after mailing or giving personal notice pursuant to § 21-3B, the City Manager or his or her duly authorized representative is authorized to arrange and pay for the removal of or correcting of such condition, either by a department of the City or by other, and immediately bill the expense thereof to the owner of record. For such purpose, the City Manager or his or her duly authorized representative is hereby authorized and empowered to enter upon the premises of any such public or private land within the City at reasonable times and under reasonable conditions to accomplish the appropriate corrective action. The abatement may include, but is not limited to, mowing and raking; removing trash, garbage, junk, yard waste and debris; filling dangerous holes or excavations and/or installing barriers; washing, scrubbing and/or painting over graffiti; and removing or relocating dangerous substances.
- B. If any bill rendered pursuant to Subsection A shall remain due and unpaid for a period of 30 days after the bill is mailed, it shall thereafter accrue interest at the rate of 6% per annum. If the amount due continues to be unpaid, the City may assess the same against the property; and such assessment shall constitute a lien upon the property from the date of completion of the work and may be billed as part of the tax applicable to the property.

**§ 21-5. Violation; enforcement; penalty.**

- A. In addition to the penalty imposed for a violation of this chapter, the operation or maintenance of any noise, property, graffiti, dust, vegetation, trash, rubbish, junk, party, and/or automobile which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health, or peace of residents in the area shall be deemed and is declared to be a nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.
- B. The City Manager or his or her duly authorized representative shall enforce the provisions of this chapter and make investigations of complaints of its violation. For such purpose, the City Manager or his or her duly authorized representative shall have authority to enter upon the premises of any public or private land within the City at reasonable times and under reasonable conditions.
- C. In addition to the employees and officers regularly required to enforce City ordinances generally, the City Manager may assign duties of enforcement of this chapter to personnel trained in noise-control techniques and procedures and equipped with calibrated sound level meters of a standard design.
- D. Except as otherwise provided, any person that violates this chapter shall be responsible for a municipal civil infraction subject to a fine of \$200 for a first offense. Each day that a violation continues shall be deemed to be a separate violation not to exceed \$500 for each subsequent offense.
- E. In this chapter, a person who fails to answer a citation or notice to appear in court for a municipal civil infraction shall be guilty of a misdemeanor. See MCLA § 600.8727(10).
- F. If the responsible party fails to abate the nuisance the City may abate the nuisance pursuant to § 21-4. Abating the nuisance is not in lieu of, or an alternative to, the civil infraction. Both civil infraction and abatement of the nuisance may be pursued by the City.
- G. The administrative hearing and abatement remedies provided in this article are not exclusive. Civil and criminal action may be brought immediately upon violation of this section without the procedures of §§ 21-3B and C and 21-4 having first been followed.

**ARTICLE II  
Noise**

**§ 21-6. General prohibition.**

- A. It shall be unlawful for any person to make or cause to be made or continued any excessive or unusually loud noise or any noise, measured or unmeasured, which either disturbs, injures or endangers the comfort, repose, health, peace or safety of any person within the limits of the City.
- B. The acts enumerated in the following sections of this chapter are declared to be loud, disturbing noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive.

**§ 21-7. Noise limitations based on dB(A) criteria.**

- A. Generally. Any noise in excess of the maximum decibel limits according to the regulations set out in this section shall be deemed to be prima facie evidence of a violation of § 21- 6.
- B. Noise from private property.
  - (1) The maximum decibel limits on noise originating from private property shall be as set forth in the following table. Noise will be measured at the boundaries of the lot. To be in violation, the source or sources of noise must be identifiable in relation to the ambience, and must exceed the limitations established for the zoning districts and times listed below:

<b>Zones</b>	<b>dB(A) Maximum Limitations</b>	
	<b>7:00 a.m. to 10:00 p.m.</b>	<b>10:00 p.m. to 7:00 a.m.</b>
Residential/Special Purpose	50 dB(A)	45 dB(A)
Commercial	55 dB(A)	50 dB(A)
Manufacturing	75 dB(A)	70 dB(A)

- (2) The following provisions shall apply to the interpretation and enforcement of this subsection:
  - (a) At boundaries between zones, the lower of the dB(A) levels shall be applicable.
  - (b) Harmonic or pure tones and periodic or repetitive impulsive sounds shall be in violation when such sounds are at a sound pressure level of five dB(A) less than those listed above.
  - (c) Construction projects shall be subject to the maximum permissible noise levels specified for industrial districts for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority, or if no time limitation is imposed, then for a reasonable period of time for completion of the project.
  - (d) Noises caused by home or building repair and ground maintenance are excluded from these limits between the hours of 7:00 a.m. and 10:00 p.m., provided they do not exceed 74 dB(A) at the property line or at a distance of 50 feet (15 meters), whichever is furthest from the source of the noise.
  - (e) All railroad rights-of-way shall be considered as industrial districts for the purpose of this subsection and the operation of trains shall be subject to the maximum permissible noise levels for such district. The allowable noise levels at the boundaries of the right-of-way shall be those appropriate within industrial districts, without regard for the zone of the abutting property.

- C. Noise from motor vehicles.

§ 21-7  
(1) Prohibitions.

§ 21-9

- (a) A motor vehicle, while being operated on a highway or street, shall be equipped with an exhaust system in good working order to prevent excessive or unusual noise and shall be equipped to prevent noise in excess of the limits established in this subsection.
- (b) A motor vehicle shall not be operated or driven on a highway or street if the motor vehicle produces total vehicle noise exceeding one of the following limits:

	Maximum Lawful Speed of Street or Highway		Stationary Run-Up Test
	Greater than 35 miles per hour	Not more than 35 miles per hour	
Motor vehicle with gross weight or gross weight rating of 8,500 pounds or more	90 dB(A) at 50 feet	86 dB(A) at 50 feet	88 dB(A) at 50 feet
Combination vehicle with gross weight or gross vehicle weight ratings of 8,500 pounds or more	90 dB(A) at 50 feet	86 dB(A) at 50 feet	88 dB(A) at 50 feet
Motorcycle or moped	86 dB(A) at 50 feet	82 dB(A) at 50 feet	95 dB(A) at 75 inches
Motor vehicle or combination of vehicles towed by a motor vehicle not covered above	82 dB(A) at 50 feet	76 dB(A) at 50 feet	95 dB(A) at 20 inches from end of tailpipe

- (c) A person shall not operate a vehicle on a highway or street if the vehicle has a defect in the exhaust system which affects sound reduction, is not equipped with a muffler or other noise-dissipative device, or is equipped with a cutout, bypass, amplifier or a similar device.
- (d) A person shall not modify, repair, replace or remove a part of an exhaust system, if the act causes the motor vehicle to which the system is attached to produce noise in excess of the levels established by this subsection, or operate a motor vehicle so altered on a street or highway.
- (e) A person, either acting for himself or herself or as the agent of employee of another, shall not sell, install or replace a muffler or exhaust part, if that act causes the motor vehicle to which the muffler or exhaust part is attached to exceed the noise limits established by this subsection.
- (f) Test procedures. Test procedures under this section shall comply with those established pursuant to MCLA § 257.707e.

**§ 21-8. Use or operation of radios, phonographs, etc.**

No person shall use, operate or permit to be played any radio receiving set, musical instrument, television set, phonograph or other machine or device for the production or reproduction of sound in such manner as to disturb the quiet, comfort or repose of any person. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be in violation of § 21-6 shall be prima facie evidence of a violation of this section.

**§ 21-9. Use of loudspeaker or sound amplifier for commercial purposes.**

The installing, using or operating, within the City, of a loudspeaker or sound-amplifying equipment, for commercial purposes, in such a manner as to disturb the quiet, comfort or repose of any person is prohibited. The

§ 21-9 operation of any such equipment or device in such a manner as to be in violation of § 21-6 shall be prima facie evidence of a violation of this section. § 21-20

**§ 21-10. Use of sound trucks.**

No sound truck or other vehicle equipped with amplifier or loudspeaker shall be driven upon any street for the purpose of selling, offering for sale or advertising in any fashion before 9:00 a.m. and after 9:00 p.m.

**§ 21-11. (Reserved)**

**§ 21-12. Selling by outcry in residential districts.**

The selling of anything by outcry within any area of the City zoned primarily for residential uses is prohibited before 9:00 a.m. and after 8:00 p.m.

**§ 21-13. Use of drum or other device to attract attention to show, sale, etc.**

No person shall use any drum, bell, buzzer or other instrument or device for the purpose of attracting attention, by the creation of noise, to any performance, show, auction or other sale, or for any other commercial purpose before 9:00 a.m. and after 8:00 p.m.

**§ 21-14. Handling of boxes, crates, containers, etc.**

The loading, unloading, opening or otherwise handling of boxes, crates, containers, garbage containers or other objects, in such a manner as to disturb the quiet, comfort or repose of any person, before 6:00 a.m. and after 8:00 p.m. is prohibited.

**§ 21-15. through § 21-16. (Reserved)**

**§ 21-17. Repairing, rebuilding or testing vehicles.**

The repairing, rebuilding or testing of any truck, automobile, motorcycle or other motor vehicle within a residential zone of the City, in such a manner as to disturb the quiet, comfort or repose of any person, is prohibited.

**§ 21-18. Sounding of vehicle horn or signaling device.**

The sounding of any horn or signaling device on any truck, automobile, motorcycle or other motor vehicle on any street or public place of the City, except as a warning signal as provided in the Michigan Vehicle Code, is prohibited.

**§ 21-19. Unmuffled exhaust from engine or motor; modifying noise-abatement device on engine or motor.**

The discharge, into the open air, of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is prohibited. Modifying any noise-abatement device on any motor vehicle or engine in a manner so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle or engine as originally manufactured shall be a violation of this section.

**§ 21-20. Construction noises.**

The performing of any construction or repair work on buildings, structures or projects, or the operating of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other construction-type device, in such a manner as to disturb the quiet, comfort or repose of any person, is prohibited, except in cases of unnecessary hardship. In such cases, a permit shall be obtained from the City Manager in accordance with § 21-23 of this

**§ 21-21. Noise near school, church, court, hospital or nursing home.**

No person shall create any excessive noise within the vicinity of any school, institution of learning, church or court while the same is in use, or within the vicinity of any hospital or nursing home, which unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed on streets within the vicinity indicating the presence of a school, hospital, court, church or nursing home.

**§ 21-22. Exemptions.**

The provisions of this article shall not apply to:

- A. Law enforcement or governmental agencies when engaged in activities authorized by law.
- B. Emergency work performed for the safety, welfare and public health of the citizens of the City.
- C. Warning devices, emitting sound for warning purposes, such as vehicle backup alarms, as authorized by law.
- D. Parades, fairs, circuses and other similar public entertainment events, sanctioned sporting events, sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above.
- E. Flights of aircraft which are in all respects conducted in accordance with, or pursuant to, federal law, federal air regulations and air traffic control instructions.

**§ 21-23. Noise permits.**

- A. The City Manager shall authorize the issuance of a permit to any person which will allow noise in excess of the noise levels designated in this chapter when he shall find the following facts to exist:
  - (1) That all of the statements made in the permit application are true;
  - (2) That the control and supervision of the production of such noise will be under responsible and reliable persons;
  - (3) That unnecessary hardships would result if a permit is not issued; and
  - (4) That the public health and safety will not be impaired by the noise permitted.
- B. Permits may be granted under this article for a period not to exceed 60 days while the hardship continues. Such a permit may be renewed for periods of 60 days while the hardship continues.
- C. A permit issued under this article shall restrict the noise-creating activity to within the hours of 7:00 a.m. and 10:00 p.m., except in the case of urgent necessity in the interest of public health and safety, in which case a permit may be issued granting permission for such activity between the hours of 10:00 p.m. and 7:00 a.m.
- D. Upon complaint filed with the City Manager by any person, or upon his own motion, the Manager may suspend the permit of any person granted under this article, for good cause shown. "Good cause" shall include:
  - (1) Any material misrepresentation in the application for a permit or any fraud in its procurement, or failure to carry out any commitment or representation contained in the application or in the rules of this chapter; or
  - (2) Any cause which would have prevented the granting of the permit in the first place.

§ 21-23

E. After the City Manager has suspended a permit, the holder of the permit shall have the right to appeal to the City Commission within 10 days after receiving notice of such suspension. Such appeal shall be made by filing written notice with the City Clerk.

§ 21-24

**§ 21-24. (Reserved)**





ARTICLE III  
**Nuisance Parties**

**§ 21-25. Nuisance parties prohibited.**

Any owner, occupant, tenant, guests or person otherwise having any possessory control, individually or jointly, of any personal or real property who either sponsors, conducts, hosts, invites, or permits a social gathering or party which is or during the course thereof becomes a nuisance party which is either the intentional result of or within the reasonable expectations of the person or persons having such possessory control is hereby deemed to have committed a violation of this article. In any prosecution for a violation of this section or the section prohibiting persons from attending nuisance parties, proof of specific intent shall not be required as a necessary element, but proof of general criminal intent shall be a necessary element.

**§ 21-26. Persons in attendance at nuisance parties.**

Any person who is in attendance at a nuisance party whether or not such person has any possessory control over the personal or real property, shall be deemed to have committed a violation of this article.

**§ 21-27. Violations and penalties.**

A violation of this article is a misdemeanor punishable by up to 90 days in jail and/or a maximum fine of \$500.

**§ 21-28. through § 21-29. (Reserved)**



ARTICLE IV  
**Blight**

**§ 21-30. Blighted structures or buildings prohibited.**

It shall be unlawful for any person to keep or maintain any blighted and/or vacant structure, building, dwelling, garage, outbuilding, factory, shop, store or warehouse in the City.

**§ 21-31. Blighted exterior and maintenance requirement of property.**

It shall be unlawful for any person to fail to improve and maintain all property under the person's control so as to comply with the following minimum requirements:

- A. All exterior property areas shall be properly maintained in a clean and sanitary condition, free from debris, brush, severed tree limbs, junk, rubbish, physical hazards, rodent harborage and infestation.
- B. All stored firewood shall be in neat, orderly stacks, unless shielded from view from all adjoining properties.
- C. The storage and accumulation of any building material shall only be for a period that is reasonably necessary for the future use of such materials, which shall in no event be longer than 90 days. Building materials must be piled off the ground so as not to become a suitable environment for rats, rodents or similar vermin.
- D. In no case shall usable or unusable machinery, building materials, or other items be stored on a permanent basis in a truck trailer or other type of trailer, with or without its wheels.
- E. Yard or garage sales in which items are for sale to the public shall be no longer than seven calendar days within a ninety-day period.
- F. Scaffolding may remain on a building only for a period that is reasonably necessary for the completion of the construction or maintenance activities for which it is erected, which shall in no event be longer than 90 days or the length of the related building permit, whichever is longer.
- G. Heavy equipment or machinery in an area zoned residential shall not be stored on a property unless there is a related active building permit on the property.
- H. In any area zoned for residential purposes, the storage upon any property of junk automobiles, except in a completely enclosed building.

**§ 21-32. through § 21-34. (Reserved)**

**§ 21-35. Vacant blighted structures.**

- A. Duty to register. Every owner of vacant blighted structure shall register that structure by completing and filing with the City a vacant blighted structure registration form. The form shall require the name, address and telephone number of each owner; the date the home became vacant and the reasons for vacancy; plans, if any, to have the structure occupied; and any other information reasonably deemed necessary by the City. The duty to register shall not require notice by the City.
- B. For purposes of this article, an "owner" shall be any person with a legal or equitable ownership interest in the structure.

**§ 21-36. Right to inspect vacant blighted structures.**

The City may access the interior of a vacant blighted structure for the purpose of inspection in regard to health, safety and welfare if the structure meets the definition of "vacant blighted structure" found in § 21-2. If necessary to effectuate this provision, the City may seek an administrative search warrant from a judge or magistrate.

**§ 21-37. Tiered classification of vacant blighted structures.**

Each vacant blighted structure will be inspected and evaluated for placement in a monitoring tier.

- A. Tier One: vacant with uncorrected exterior and interior violations. Monthly monitoring inspections are required. Monthly monitoring of Tier One properties is limited to 24 months. If violations remain unresolved, a municipal civil infraction citation will be issued, or court action pursued.
- B. Tier Two: vacant with no exterior violations, but uncorrected interior violations. Monitoring inspections are required every six months. Monthly monitoring of Tier Two properties is limited to 36 months. If violations remain unresolved, a municipal civil infraction citation will be issued, or court action pursued.

**§ 21-38. Monthly or biannual administrative fee for vacant blighted structures.**

- A. The owner of a vacant blighted structure shall pay a vacant blighted structure monthly or biannual administrative fee depending on the qualifying tier of monitoring, the amount of which shall be established by City Commission resolution, for the period such structure remains a vacant blighted structure.
- B. The City will provide a written invoice of the monthly or biannual administrative fee. The amount due for any month during which the status was less than the entire month or less than six months shall be prorated to reflect the period the structure was a vacant blighted structure.
- C. Payment is due within 30 days from the date of the invoice. If the invoice is not paid, the City shall notify the City Assessor's Office, who will assess the unpaid amount against the property where the vacant blighted structure is located. The City may enforce the lien by placing the unpaid amount on the next tax roll of the City, the collection of which is enforceable in the same manner as delinquent taxes.

**§ 21-39. Vacant blighted structure status change.**

The City may alter the tier status of a vacant blighted structure under the following circumstances:

- A. Tier One to Tier Two: if all exterior deficiencies and/or violations are corrected with uncorrected interior violations remaining.
- B. Removal from Tier One: if all interior and exterior deficiencies and/or violations are corrected.
- C. Removal from Tier Two: if all interior deficiencies and/or violations are corrected.
- D. Reclassification to Tier One: If the exterior of a vacant blighted structure that was reclassified from Tier One to Tier Two again falls into disrepair, the structure shall be reclassified to Tier One.
- E. In order for a change of status to be effective, the work performed on a vacant blighted structure must have the approval of the appropriate City inspector; that is for repairs that do not require a permit; for work that requires a permit to correct the violation, the applicable building/trades inspector responsible for that particular type of work must provide approval.

**§ 21-40. Violation; penalty.**

- A. A person who maintains a blighted structure, vacant or occupied, is responsible for a municipal civil infraction, the penalty for which is a minimum fine of \$200 plus costs as assessed by the court. If a person commits a second or subsequent violation occurring within six months of a previous violation for the same blighted structure, the minimum fine shall double from the minimum fine set for the previous violation.
- B. A person who allows occupancy of a registered vacant blighted structure when violations remain uncorrected shall be guilty of a misdemeanor punishable by a fine not to exceed \$500 and/or jail not to exceed 90 days, plus costs as assessed by the court.

**Chapter 22**

**OFFENSES AND CRIMES GENERALLY**



STATUTORY REFERENCES

- Controlled substances — See MCLA § 333.7101 et seq.
- Assaults — See MSA § 28.276 et seq.; MCLA § 750.81 et seq.
- Attempts to commit crime — See MSA § 28.287; MCLA § 750.92.
- Cursing and swearing — See MSA § 28.298; MCLA § 750.103.
- Minors and liquor — See MCLA § 436.1703.
- Curfew for minors — See MSA §§ 28.342(1) — 28.342(3); MCLA §§ 722.751 — 722.753.
- State curfew law does not affect power of City to enact curfew ordinance — See MSA § 28.342(4); MCLA § 722.754.
- Impersonation of police officers — See MSA § 28.412; MCLA § 750.215.
- Forfeiture of weapons — See MSA § 28.436; MCLA § 750.239.
- Indecent exposure — See MSA § 28.567(1); MCLA § 750.335a.
- Indecent language in presence of women or children — See MSA § 28.569; MCLA § 750.337.
- Larceny — See MSA § 28.588 et seq.; MCLA § 750.356 et seq.
- Breaking and entering coin operated telephone — See MSA § 28.588(2); MCLA § 750.356b.
- Littering — See MSA § 28.603(1) et seq.; MCLA § 324.8901 et seq.
- Covering or fencing wells or cisterns — See MSA § 28.761(2); MCLA § 750.493b.
- Removal of locking devices from abandoned iceboxes or refrigerators — See MSA § 28.761(4); MCLA § 750.493d.
- Aiding and abetting — See MSA § 28.979; MCLA § 767.39.
- Obscene literature — See MCLA § 752.361 et seq.
- Gambling — See MCLA § 750.301.
- Malicious and willful mischief and destruction — See MCLA § 750.50b et seq.
- Prostitution — See MCLA § 750.448 et seq.
- Trespass — See MCLA § 750.546 et seq.
- Regulation and Taxation of Marihuana Act — See MCLA § 333.27951 et seq.
- Medical Marihuana Facilities Licensing Act — See MCLA § 333.27101 et seq.
- Interference with flow of traffic — See MCLA § 257.676.b
- Public Nuisance Act — See MCLA § 600.3801 et seq.
- Violations of Liquor Control Code — See MCLA § 436.1909.
- Definitions related to substance abuse disorder services — See MCLA § 333.6230.
- Definitions pertaining to mental health — See MCLA § 330.1100a.
- Status of minors and child support — See MCLA §§ 722.1 to 722.6

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107. Editor's Note: This ordinance superseded former Ch. 22, Offenses and Crimes Generally, as amended.





**§ 22-1. Attempted offenses. [Amended 7-18-2022 by Ord. No. 2051]**

Every person who attempts to commit an offense against the provisions of this Code or any rule or regulation promulgated pursuant to this Code, and in such attempt does any act toward the commission of such offense, but fails or is prevented or intercepted in the perpetration thereof, is guilty or responsible of an offense and shall be punished in the manner prescribed for the attempted offense itself.



§ 22-1

§ 22-2

**§ 22-2. Procuring, aiding, etc., commission of offense. [Amended 7-18-2022 by Ord. No. 2051]**

Every person who procures, counsels, aids or abets another to commit an offense against any provisions of this Code or any rule or regulation promulgated pursuant to this Code shall be guilty or responsible of an offense and punished in the same manner as the person who committed the offense.



§ 22-2  
**§ 22-3. Definitions.**<sup>108</sup> [Added 7-18-2022 by Ord. No. 2051]

§ 22-3

As used in this chapter, the following terms shall have the meanings indicated:

**AMMUNITION** — Any ammunition cartridge, shell or other device containing explosive or incendiary material designed and intended for use in any firearm.

**BRANDISH** — To deliberately point, waive about, or display a firearm in a threatening manner with the intent to induce fear in another individual.

**CONTROLLED SUBSTANCE** — Defined as it is in the Controlled Substances Act of the State of Michigan, MCLA § 333.7101 et seq., as amended.

**DRUG PARAPHERNALIA** — Any item which is used or intended for use with a controlled substance. Drug paraphernalia does not include "marihuana accessories" as defined in the Michigan Regulation and Taxation of Marihuana Act, MCLA § 333.27951 et seq., as amended, or "paraphernalia" relating to marihuana as defined in the Medical Marihuana Facilities Licensing Act, MCLA § 333.27101 et seq., as amended.

**FACSIMILE FIREARM** — Any device that in size, shape, color, construction or design might reasonably be perceived to be a firearm or pneumatic gun and can only be differentiated from a firearm or pneumatic gun through close inspection.

**FIREARM** — Any weapon or device which will, is designed to, or may readily be converted to, expel a projectile by action of an explosive.

**MINOR** — Any person under the age of 18.

**PNEUMATIC GUN** — Any implement, designed as a gun, that will expel a BB or pellet by spring, gas, or air. "Pneumatic gun" includes a paintball gun that expels by pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

**PUBLIC PLACE** — A place where a governmental entity has title, to which the public has access, including but not limited to any sidewalk, street, highway, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

**SOLICITING** — Asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. "Soliciting" shall include using the spoken, written, or printed word, bodily gestures, signs, or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

**USED OR INTENDED FOR USE WITH A CONTROLLED SUBSTANCE** — At the time the defendant sold or offered for sale, either:

- A. The item was primarily designed or adapted, because of its objective physical features, for use with a controlled substance; or
- B. The item was intended by the defendant for use with a controlled substance; or
- C. The defendant knew, or, because of the information known to him, should have known, that the recipient intended to use the item with a controlled substance.

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**108. Editor's Note: Former § 22-3, Nuisances generally — Specified; unlawful to maintain; exceptions, adopted as § PS605 of the P.S. Code, as amended, was repealed 6-3-2019 by Ord. No. 1990.**



§ 22-3  
§ 22-4. through § 22-5. (Reserved)<sup>109</sup>

§ 22-4

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**109.** Editor's Note: § 22-4, Same — Investigations; notice to abate; hearing, adopted as § PS605.3 of the P.S. Code, as amended, and § 22-5, Same — Abatement by City, adopted as §§ PS605.4 and PS605.5 of the P.S. Code, as amended, were repealed 6-3-2019 by Ord. No. 1990.





§ 22-4

§ 22-6

**§ 22-6. Damaging or interfering with public property. [P&L Code § PL716]**

It shall be unlawful for any person to destroy, break or in any way interfere with any street light or other public property or sign of a public agency, in the City.



§ 22-6

**§ 22-7. Trespass upon lands or premises of another. [P&L Code § PL226; amended 2-13-1984 by Ord. No. 1314; 4-30-1984 by Ord. No. 1320]**

§ 22-7

Any person who shall wilfully enter upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner, occupant or agent of either, or any person being upon the lands or premises of another, upon being notified to depart therefrom by the owner, occupant or agent of either, who, without lawful authority, neglects or refuses to depart therefrom shall be guilty of a misdemeanor. Any person who wilfully enters on any property which is posted against trespassing in a conspicuous manner is guilty of a misdemeanor.



§ 22-7

**§ 22-8. Being on property of another at night without lawful business; window peeping. [P&L Code § 22-8  
§ PL221; amended 3-4-2002 by Ord. No. 1733]**

- A. Any person who shall stand, prowl or enter the private property of another in the nighttime without lawful business with the owner or occupant, shall be guilty of a misdemeanor.
- B. Any person who, while standing, prowling or entering the private property of another, in the day or nighttime, without lawful business with the owner or occupant, looks or peeps in the windows or doors of any inhabited building, house or structure located thereon, shall be guilty of a misdemeanor.



§ 22-8  
§ 22-9. (Reserved)<sup>110</sup>

§ 22-9

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**110. Editor's Note: Former § 22-9, Spitting on sidewalks or floors of public conveyances and places, P&L Code § PL216, was repealed 7-18-2022 by Ord. No. 2051.**





§ 22-9  
**§ 22-10. Littering and illegal dumping. [P&L Code § PL217; amended 9-3-1974 by Ord. No. 1029; 10-28-1985 by Ord. No. 1362; 7-18-2022 by Ord. No. 2051]** § 22-10

- A. It is unlawful for a person knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw, or leave or cause or permit the dumping, depositing, placing, throwing or leaving of any refuse, debris, or other litter on public or private property. It is unlawful for a person who removes a vehicle, wrecked or damaged in an accident on a highway, road or street, to fail to remove all glass and other injurious substances dropped on the highway, road or street as a result of the accident.
- B. In a proceeding for a violation of this section involving litter from a motor vehicle, proof that the particular vehicle described in the citation was used in the violation, together with proof that the defendant named in the citation was the registered owner of the vehicle at the time of the violation, constitutes in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.
- C. The driver of a vehicle is presumed to be responsible for refuse, debris or litter which is thrown, dropped, dumped, deposited, placed or left from the vehicle on public or private property.
- D. Penalty.
  - (1) A person who violates this section shall be responsible for a municipal civil infraction. The following schedule of fines shall apply for a violation of this section:
    - (a) A fine of up to \$200 if the amount of the litter is less than one cubic foot in volume.
    - (b) A fine of not less than \$200 but not more than \$500 if the amount of litter is more than one cubic foot in volume, but less than three cubic feet in volume.
    - (c) A fine of not less than \$500 but not more than \$2,500 if the amount of the litter is more than three cubic feet in volume.
  - (2) The court may order a person responsible for a violation of this section to reimburse the City of Kalamazoo for the costs incurred in removing and/or disposing of the refuse, debris, or litter connected with the particular violation.
  - (3) In addition to a civil fine and restitution, the court may impose, under its supervision, community service in the form of litter-gathering labor, including, but not limited to, litter connected with the particular violation.



§ 22-10  
§ 22-11. (Reserved)<sup>111</sup>

§ 22-11

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111. Editor's Note: Former § 22-11, Covering or fencing of dry wells, cisterns and cesspools, P&L Code § PL715.1, was repealed 7-18-2022 by Ord. No. 2051.



§ 22-11

§ 22-12

**§ 22-12. Abandoned refrigerators and similar containers. [P&L Code §§ PL715.2, PL715.2A; amended 7-18-2022 by Ord. No. 2051]**

- A. No person shall permit or suffer to remain in the City any abandoned, discarded or unattended refrigerator, cooler, chest, cabinet or other similar equipment, without first removing the doors or the locks or latches or without first taking other precautions to effectively prevent children from being inadvertently or otherwise locked therein.
- B. A person who violates this section shall be responsible for a municipal civil infraction.



§ 22-12  
§ **22-12.1. (Reserved)**<sup>112</sup>

§ 22-12.1

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**112. Editor's Note: Former § 22-12.1, pertaining to parking/storage of vehicles in front yards, as amended, was repealed 1-29-1990 by Ord. No. 1483. For current, related provisions, see § 36-186.**





§ 22-12.1

§ 22-13

**§ 22-13. Inoperable or wrecked motor vehicles and vehicle parts. [P&L Code §§ PL501 - PL503, PL506; amended 3-11-1991 by Ord. No. 1510; 3-15-2004 by Ord. No. 1767]**

- A. No person shall park, store, abandon, discard or permit to remain on any premises in the City, including a public or private right-of-way or street or any public property, any inoperable, wrecked, or partially dismantled motor vehicle or a part of a motor vehicle, except where permitted by the Zoning Ordinance and except as otherwise provided in this section. The absence of current license plates shall create a rebuttable presumption that a vehicle is inoperable. This section shall not apply to a motor vehicle or part thereof in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City. For purposes of this section, "inoperable vehicle" means a vehicle that does not mechanically operate and/or a vehicle whose condition is such that it cannot lawfully be operated upon the streets of this City. Reference below to the stickering and towing of vehicles in all ways also applies to the removal of parts of a motor vehicle.
- B. The presence of any inoperable, wrecked, or partially dismantled vehicle, or parts or tires of motor vehicles, on any premises contrary to this section is hereby declared to be a public nuisance. As such, the City may take reasonable action to abate the nuisance, including having the vehicle towed away from the premises. Such towing shall not occur less than 10 days after a sticker has been affixed to the vehicle, which sticker shall state that the vehicle is in violation of this section and that it may be towed if the situation is not remedied. In the event a vehicle is towed, the owner of the vehicle shall be responsible for reasonable towing and storage charges. In addition, an administrative fee may also be assessed by the City in amounts determined by resolution by the City Commission. Said fee, in a lesser amount when a vehicle is only stickered and in a greater amount when the vehicle is thereafter towed, may be assessed against those persons described in Subsection E below. The fee shall not be assessed when a vehicle is stickered but thereafter determined by the City to not have been in violation.
- C. A vehicle which is stickered and thereafter brought into compliance, but which is thereafter in violation of this section within 60 days of the initial stickering shall be subject, without further stickering, to abatement action, including towing.
- D. The time limits specified in this section may be extended for further periods upon issuance of a special permit by the City Manager, or his or her designee, in cases where undue hardship would be caused by strict enforcement.
- E. Any person who violates this section and is the owner of or has charge, custody or control of a vehicle about which abatement action has been taken, and/or who resides at the site of such a vehicle and has control of the premises shall be responsible for a municipal civil infraction. The administrative fee described above may be assessed against any such person and/or against the nonresident owner of the premises if the City first mails a notice of violation and possible assessment to said person at his/her last known address at least 10 days prior to the abatement activities. **[Amended 7-18-2022 by Ord. No. 2051]**
- F. In addition to any other fine or cost, the court shall order a person responsible of violating this section to pay the City the amount of the administrative fee if said fee has been assessed against that person. If an administrative fee remains unpaid 30 days after it has been assessed, it shall thereafter accrue interest at the rate of 6% per annum from the date of the assessment. Further, if the person assessed both owns and resides at the site, or owns but does not reside at the site but was provided written notice as described above, an unpaid administrative fee shall constitute a lien upon the property and may be billed as part of the tax applicable to the property. **[Amended 7-18-2022 by Ord. No. 2051]**



§ 22-13

§ 22-14

**§ 22-14. Restriction on use of barbed wire/electric fences. [P&L Code § PL721; amended 9-21-1998 by Ord. No. 1659]**

- A. No person shall use or place barbed wire on any fence, barrier or other structure within six feet of the ground in any place in the City.
- B. No person shall use or place, or allow to be used or placed upon their property, an aboveground fence which is charged with or otherwise carries an electrical current.
- C. A person who violates this section shall be responsible for a municipal civil infraction. [**Added 7-18-2022 by Ord. No. 2051**]



§ 22-14  
§ 22-15. through § 22-17. (Reserved)<sup>113</sup>

§ 22-15

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**113. Editor's Note: Former §§ 22-15, Fraud generally, P&L Code § PL208; 22-16, False or fraudulent statements for purpose of obtaining welfare or relief benefits, P&L Code § PL604; and 22-17, Phrenology, fortune-telling, etc., P&L Code § PL218, were repealed 7-18-2022 by Ord. No. 2051.**



§ 22-15

§ 22-18

**§ 22-18. Begging; panhandling; soliciting. [P&L Code § PL219; amended 8-21-2006 by Ord. No. 1811; 11-3-2014 by Ord. No. 1928; 7-18-2022 by Ord. No. 2051]**

- A. No person shall solicit in or on private property without first obtaining the permission from the owner or person in lawful control or possession of such property.
- B. No person shall solicit in or on a public place:
  - (1) In any public transportation vehicle, such as a bus or train, nor within 20 feet of where such a vehicle takes on or releases passengers, nor within 20 feet of any bus stop;
  - (2) At the intermodal transit center;
  - (3) Within 20 feet of any entrance or exit of a bank, credit union, or an automated teller machine (When an automated teller machine is located within a structure, the 20 feet shall be measured from the entrance or exit of the structure.);
  - (4) From a person who is in a vehicle on the street, except in strict conformance with Section 676b of the Michigan Vehicle Code, MCLA § 257.676b, a violation of which is a civil infraction subjecting the violator to a minimum civil fine of \$100 and a maximum fine of \$500.
  - (5) After sunset nor before sunrise;
  - (6) Within 10 feet of an entrance to a building;
  - (7) From a child whom the solicitor knows or reasonably should know is under the age of 16 years;
  - (8) In an aggressive manner, which includes:
    - (a) Approaching or speaking to a person, or following a person before, during or after soliciting, in a manner that is intended or is likely to cause a reasonable person to fear bodily harm to himself or herself or to another, or damage to or loss of property or otherwise be intimidated into giving money or other thing of value;
    - (b) Continuing to solicit from a person after the person has given a negative response to such soliciting;
    - (c) Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;
    - (d) Conspicuously following the person to be solicited or who has been solicited;
    - (e) Soliciting money from anyone who is waiting in line for entry to a building or for another purpose;  
or
  - (9) From anyone who is within an enclosed area, defined by fencing, gates, bollards or other means of separation, where food and/or beverages are being served for immediate consumption in a public place.
- C. Except as otherwise provided, a person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than \$250, or both.





§ 22-18

**§ 22-19. Impeding pedestrian or vehicular passage. [P&L Code § PL207; amended 4-13-1981 by Ord. No. 1222]**

§ 22-19

Any person or persons who, on any street, sidewalk, or any other place open to the public, do any act which hinders or impedes, or tends to hinder or impede, the passage of pedestrians or vehicles and refuse to cease and desist such acts when ordered to do so by a police officer or public safety officer, or other person in charge of the property, shall be guilty of a misdemeanor.



§ 22-19

§ 22-20

**§ 22-20. Resisting or interfering with a public safety officer or other duly authorized person. [Amended 3-15-1993 by Ord. No. 1554]**

It shall be unlawful for any person to:

- A. Knowingly or wilfully obstruct, resist, interfere with and/or oppose, by physical or nonphysical means, any public safety officer, police officer, or other duly authorized person while said officer or person was engaged in lawful acts, attempts and efforts in the enforcement or execution of any law, ordinance, rule, order, or resolution made, issued, or passed by lawful authority.
- B. Knowingly or wilfully obstruct, resist, interfere with, and/or oppose, by physical or nonphysical means, any public safety officer, police officer, or other duly authorized person, in serving or attempting to serve or execute any civil or criminal process, rule or order made, issued, or passed by lawful authority.
- C. Knowingly or wilfully failing to obey the lawful order or command of a public safety officer, when such person knows or should know said officer to be a member of the Department of Public Safety or any other police agency.
- D. Knowingly or wilfully interfere with, and/or oppose, by physical or nonphysical means, any public safety officer, firefighter, medical technician, or other duly authorized person while in the performance of his or her duties or while attempting to aid an injured or ill person, reduce a hazardous condition, or meet the needs of an emergency.
- E. Flee or attempt to flee a public safety officer or police officer when said officer is lawfully enforcing or attempting to enforce any civil or criminal law, ordinance, or rule.
- F. Knowingly give false or misleading information to a public safety officer or police officer while said officer is in the performance of his or her lawful duties.



§ 22-20

§ 22-21

**§ 22-21. Interfering with operation of Department of Public Safety or court. [P&L Code § PL210; amended 7-18-2022 by Ord. No. 2051]**

It shall be unlawful for any person to interfere in any way with the operation of the Department of Public Safety or any court in the City.



§ 22-21  
§ 22-22. (Reserved)<sup>114</sup>

§ 22-22

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114. Editor's Note: Former § 22-22, relative to interfering with police or ambulance personnel, was repealed 10-31-1983 by Ord. No. 1296.  
20A:93





§ 22-22

§ 22-23

**§ 22-23. Impersonating City policeman, fireman, public safety officer or inspector. [P&L Code § PL603]**

It shall be unlawful for any person, not a policeman, fireman or inspector of the City, to wear, in the City, or to use, as a means of obtaining entrance in any dwelling house, home, apartment or residence within the City, the distinctive hat, uniform or badge, or any hat, uniform or badge similar to the hat, uniform or badge approved by the City Manager for the purpose of designating policemen, firemen, or public safety officers, and inspectors, or in any other way to use such hat, uniform or badge for gaining entrance into any dwelling, house, home, apartment or residence within the City.



§ 22-23  
§ 22-24. (Reserved)<sup>115</sup>

§ 22-24

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115. Editor's Note: Former § 22-24, Impersonating meter readers, P&L Code § PL602; P.S. Code § PS402.1, was repealed 7-18-2022 by Ord. No. 2051.



§ 22-24

§ 22-25

**§ 22-25. Petty larceny. [P&L Code § PL222; amended 7-18-2022 by Ord. No. 2051]**

Any person who takes or steals any money, goods, chattels or other things of value belonging to another, and having a value of less than \$200, shall be guilty of a misdemeanor punishable by imprisonment of not more than 90 days or a fine of not more than \$500, or both.



§ 22-25

§ 22-26

**§ 22-26. Breaking into coin-operated machines or devices. [P&L Code § PL222.2]**

Any person who, without lawful authority, breaks or enters into any coin-operated telephone or any pinball machine, jukebox, vending machine, parking meter or similar coin-operated machine or device, for any reason, shall be deemed guilty of a misdemeanor.





§ 22-26

**§ 22-27. Retail fraud. [P&L Code § PL223; amended 10-17-1988 by Ord. No. 1448; 7-16-2012 by Ord. No. 1898]**

§ 22-27

- A. A person who does any of the following in a store or its immediate vicinity, if the property at issue has a value of less than \$200, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500:
- (1) While a store is open to the public, alters, transfers, replaces, conceals or otherwise misrepresents the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale.
  - (2) While a store is open to the public, steals property of the store that is offered for sale.
  - (3) With the intent to defraud, obtains or attempts to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store.



§ 22-27  
§ 22-28. (Reserved)<sup>116</sup>

§ 22-28

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116. Editor's Note: Former § 22-28, Dust emission from industrial or commercial establishments, P&L Code §§ PL1212.1, PL1212.2, was repealed 7-18-2022 by Ord. No. 2051.



**§ 22-29. Weapons violation.<sup>117</sup> [P&L Code § PL401; amended 7-18-2022 by Ord. No. 2051]**

- A. It shall be unlawful for any person to shoot or discharge any firearm within the limits of the City, except by permission of the Chief of Police.
- B. It shall be unlawful for any person to discharge a pneumatic gun within the City except:
  - (1) At an authorized target range;
  - (2) On other property where firearms may be discharged; or
  - (3) On or within private property with the permission of the owner or possessor of that property if conducted with reasonable care to prevent a projectile from crossing the bounds of the property.
- C. A person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

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**117.Editor's Note: The title of § 22-29 was changed at the direction of the City, to indicate that § 22-29 includes more than firearms.**  
20A:107



§ 22-29

§ 22-30. **Assault, battery, fighting, etc. [P&L Code § PL215; amended 7-18-2022 by Ord. No. 2051]** § 22-30

Any person who shall willfully assault another in any place in the City, or be engaged in or aid or abet in any fight, quarrel or other disturbance in the City, shall be deemed guilty of a misdemeanor.





§ 22-30  
§ 22-31. through § 22-33. (Reserved)<sup>118</sup>

§ 22-31

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**118. Editor's Note: Former §§ 22-31, Accosting, molesting, etc., others, P&L Code § PL202, as amended; 22-32, Improper advances, gestures, etc., to people, P&L Code § PL221.1, as amended; and 22-33, Obscene or profane language or gestures, P&L Code § PL202(a), as amended, were repealed 7-18-2022 by Ord. No. 2051.**



§ 22-31

**§ 22-34. Indecent exposure. [P&L Code § PL203; amended 4-28-1975 by Ord. No. 1049]**

§ 22-34

No person shall make any indecent exposure of his or her person in any public place or within public view.



**§ 22-34.1. Public urination. [Added 4-21-1997 by Ord. No. 1634]**

- A. Except where a rest room is used, it shall be unlawful for any person to urinate or defecate:
  - (1) While on or in any public street, sidewalk, alley, park, parking lot, parking structure, public carrier or any other place open to the public; or
  - (2) While on or in any private property when said act is open to public view; or
  - (3) While on or in the private property or another without the consent of the owner.
- B. A person who violates this section shall be responsible for a municipal civil infraction. **[Added 7-18-2022 by Ord. No. 2051]**



§ 22-34.1  
§ 22-35. (Reserved)<sup>119</sup>

§ 22-35

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**119. Editor's Note: Former § 22-35, Selling or exhibiting indecent or obscene pictures, books, etc., to minors, P&L Code § PL204, was repealed 7-18-2022 by Ord. No. 2051.**





§ 22-35

§ 22-36

**§ 22-36. Prostitution; engaging services for prostitution; admitting to place for purposes of prostitution; letting and leasing; aiders and abettors; reimbursement of police response expenses; public nuisances. [P&L Code §§ PL211 - PL211.2; amended 3-14-1994 by Ord. No. 1570; 3-4-2002 by Ord. No. 1732; 7-7-2003 by Ord. No. 1758; 7-6-2004 by Ord. No. 1773]**

- A. Any person who shall accost, solicit or invite another person in any public place, or in or from any building or vehicle, by word, gesture or any other means, to commit prostitution or to do any other lewd or immoral act, shall be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both.
- B. Any person who walks, strolls or loiters about for lewd or immoral purposes or for the purposes of enticing others to commit prostitution, shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.
- C. Any person who engages or offers to engage the services of a person for the purpose of prostitution, lewdness or assignation, by the payment in money or other forms of consideration, shall be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both.
- D. Any person who shall receive or admit or offer to receive or admit any person into any place, structure, house, building or vehicle for the purpose of prostitution, lewdness or assignation, or who shall knowingly permit any person to remain in any such place for any such purpose, shall be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both.
- E. Any person who shall knowingly let or lease any place, structure, house, building or vehicle for the purpose of prostitution, lewdness or assignation, or who shall knowingly permit said lessee to use the same for such purpose, or who shall knowingly receive any rent or other consideration for any place, structure, house, building or vehicle for the purpose of prostitution, lewdness or assignation, shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.
- F. Any person who shall aid, assist or abet another to commit, or offer to commit, any act prohibited in this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both.
- G. Any person who is on probation or on bond for a violation of any part of this section or a state statute or other municipal ordinance which is substantially similar to this section, and is found to be in violation of the terms of such probation or bond, may be immediately arrested.
- H. Cost recovery for violation of this section.
  - (1) Any person in violation of any subsection of § 22-36 shall be liable to the City of Kalamazoo for the costs of the police response involved in the investigation of the incident leading up to the arrest or charging of the defendant, including, but not limited to: The salaries or wages, including overtime pay, of public safety or other City personnel for time spent responding to the incident, including arresting the individual or preparing charges, processing the individual after an arrest, preparing reports on the incident and investigating the incident and incarceration costs and medical costs of the inmate.
  - (2) All expenses of a police response shall be a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the City in the same manner as in the case of an obligation under a contract, express or implied; except that liability for the expenses provided for in this section shall not be insurable, and no insurance policy shall provide or pay for any of the expenses. This section shall be construed to be a responsibility and liability of a civil nature on the part of the person and shall not be construed to conflict, contravene or enlarge or reduce any criminal liability or responsibility, and shall not be a substitute for any criminal liability, including fines or costs imposed by a judge for a violation of § 22-36.
  - (3) The City Commission may adopt by resolution a schedule of the costs included within the expenses of a

§ 22-36

§ 22-36

police response pursuant to this section.

- (4) After receiving itemized costs incurred for a police response, the Public Safety Department shall submit a bill for those costs by first-class mail or personal service to the person liable for these expenses under this section. Said bill shall require full payment within 30 days from the date of service.
  - (5) If the individual described in this section fails to pay the bill within 30 days of service, then the City Attorney may commence a civil action to recover the expenses of the police response and any costs of the litigation allowed by law.
- I. Kalamazoo Department of Public Safety officers are authorized to seize any vehicle or other personal property used for the purposes of soliciting or committing any acts prohibited by this section pursuant to the Public Nuisance Act, MCLA § 600.3801 et seq., as amended. The Department of Public Safety is authorized at its discretion to release any vehicle which has been seized to the owner upon payment of a sum to be determined by the Chief of Public Safety. Further, the Office of the City Attorney is authorized to maintain an action to abate a nuisance and to have the vehicle or property forfeited under the Public Nuisance Act, MCLA § 600.3801 et seq., as amended, and to name a Kalamazoo Department of Public Safety officer as the plaintiff pursuant to MCLA § 600.3805, as amended.

**§ 22-37. Gambling and gambling houses. [P&L Code §§ PL1208, PL211.2, PL214, PL214.1]**

- A. It shall be unlawful for any person to engage in any form of gambling within the City.
- B. No person shall, directly or indirectly, keep or occupy, or assist in keeping or occupying, or maintain or let to another any common gambling house or any building or place where gaming is permitted or suffered, or suffer or permit, on any premises owned, occupied or controlled by him, any apparatus used for gaming or gambling in any place within the City.
- C. It shall be unlawful for any person to loiter, congregate or be found in any house or other place where gambling is taking place.



§ 22-37

§ 22-38

**§ 22-38. Keeping or frequenting place used for illegal sale of liquor. [P&L Code § PL214]**

Any person who shall keep or maintain a place where liquor is sold illegally or any person who shall loiter, congregate or be found in any room or place where liquor is sold illegally shall be deemed guilty of a misdemeanor.



§ 22-38  
§ 22-39. through § 22-40. (Reserved)<sup>120</sup>

§ 22-39

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**120. Editor's Note: Former §§ 22-39, Marijuana possession; penalty, added 10-1-2012 by Ord. No. 1904; and 22-40, Being under influence of controlled substance or drug in public, P&L Code § PL212.2, were repealed 7-18-2022 by Ord. No. 2051.**





§ 22-39

**§ 22-41. Drug paraphernalia. [Amended 2-16-1987 by Ord. No. 1403;<sup>121</sup> 6-3-2019 by Ord. No. 1992; 7-18-2022 by Ord. No. 2051]**

§ 22-41

- A. Any person who shall sell or offer for sale drug paraphernalia shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.
- B. This section shall not apply to:
- (1) Persons licensed by the State of Michigan to engage in the activity prohibited by Subsection A above; or
  - (2) An object sold, offered for sale, or given away by a person or agency specifically authorized by the City Commission to prevent the transmission of infectious agents, pursuant to MCLA § 333.7457(f). Authorization by the City Commission shall be valid for a period of two years.
    - (a) To obtain authorization, the City Commission shall be provided with information outlining the following:
      - [1] The address and proposed location of the proposed program sites;
      - [2] Written procedures regarding the collection and disposal of used hypodermic syringes and needles;
      - [3] Written procedures for the distribution of new hypodermic syringes and needles;
      - [4] Services that will be offered;
      - [5] The complete corporate name and documentation that verifies incorporation, as well as compliance with all legal reporting and filing requirements if the person or agency is a corporation; and
      - [6] All trade or assumed names utilized to conduct business if the person or agency conducts business under a trade or assumed name.
    - (b) To renew authorization, the City Commission shall be provided with a report, ensuring client confidentiality, outlining statistics and aggregate data collected over the previous two-year authorization period and any updated information, policies and procedures.

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121. Editor's Note: Section 1 of Ord. No. 1403 directed that a new § 22-54, pertaining to the sale of drug paraphernalia, be added to the Code. Said section has been included, at the editor's discretion, as § 22-41 for purposes of classification.



§ 22-41

§ 22-42

**§ 22-42. No person under 21 shall purchase, consume or possess alcohol and no person shall furnish or use fraudulent identification for the purpose of obtaining alcoholic liquor for a person less than 21 years of age. [P&L Code § PL213.2; amended 3-19-1979 by Ord. No. 1153; 5-4-1998 by Ord. No. 1652; 11-2-2009 by Ord. No. 1860; 12-18-2017 by Ord. No. 1953]**

- (1) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided by law. A minor who violates this subsection is responsible for a municipal civil infraction or guilty of a misdemeanor as follows and is not subject to the penalties prescribed in MCLA § 436.1909:
  - (a) For the first violation, the minor is responsible for a municipal civil infraction and shall be fined not more than \$100, and may be ordered to participate in substance use disorder services as defined in MCLA § 333.6230, and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in Subsection (5). A minor may be found responsible or admit responsibility only once under this subsection.
  - (b) If a violation of this subsection occurs after one prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subsection is punishable by imprisonment for not more than 30 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or a fine of not more than \$200, or both, and may be ordered to participate in substance use disorder services as defined in MCLA § 333.6230, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in Subsection (5).
  - (c) If a violation of this subsection occurs after two or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subsection is punishable by imprisonment for not more than 60 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or a fine of not more than \$500, or both, and may be ordered to participate in substance use disorder services as defined in MCLA § 333.6230, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in Subsection (5).
- (2) A person who furnishes fraudulent identification to a minor, or, notwithstanding Subsection (1), a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100, or both.
- (3) If an individual pleads guilty to a misdemeanor violation of Subsection (1)(b) the court, without entering a judgment of guilt in a criminal proceeding and with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions as set forth in MCLA § 436.1703, as amended.
- (4) A misdemeanor violation of Subsection (1) successfully deferred, discharged, and dismissed under Subsection (3) is considered a prior judgment for the purposes of Subsection (1)(c).
- (5) The court may order the person found responsible for or convicted of violating Subsection (1) to undergo screening and assessment by a person or agency as designated by the department-designated community mental health entity as defined in MCLA § 330.1100a, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. The court may order a person subject to a conviction or juvenile adjudication of, or placed on probation regarding, a violation of Subsection (1) to submit to a random or regular preliminary chemical breath analysis. In the case of a minor under 18 years of age not emancipated under MCLA §§ 722.1 to 722.6,  
20A:129

§ 22-42 the parent, guardian, or custodian may request a random or regular preliminary chemical breath analysis as part of the probation. § 22-42

- (6) (Reserved)
- (7) A public safety officer or a peace officer who has reasonable cause to believe a person less than 21 years of age has consumed alcoholic liquor may request that a person voluntarily consent to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a public safety officer or a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a municipal civil infraction proceeding or criminal prosecution to determine whether the person less than 21 years of age has consumed or possessed alcoholic liquor.
- (8) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under MCLA §§ 722.1 to 722.6 allegedly consumed, possessed or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of Subsection (1) shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated Subsection (1) is less than 18 years of age and not emancipated under MCLA §§ 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice, including, but not limited to, notice in person, by telephone, or by first-class mail.
- (9) through (16) (Reserved)
- (17) In a prosecution for the violation of Subsection (1) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal. Further, this section shall not apply to any consumption of alcohol expressly permitted by MCLA § 436.1703, as amended.
- (18) As used in this section:
  - (a) "Any bodily alcohol content" means either of the following:
    - [1] An alcohol content of 0.02 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
    - [2] Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.
  - (b) "Prior judgment" means the term as defined in MCLA § 436.1703, as amended.

**§ 22-42.1. Open containers and consumption of alcoholic beverages prohibited in City-owned or operated parking lots, parking structures and on Kalamazoo Mall. [Added 11-6-1978 by Ord. No. 1146]**

- A. A person shall not possess any alcoholic liquor, as that term is defined in the Michigan Liquor Control Act, in a container which is open, uncapped or upon which the seal is broken, or consume any said alcoholic liquor in any City-owned or operated parking lot or parking structure; provided, however, that said alcoholic liquor may be sold, possessed and consumed in such a parking lot or parking structure during the period of a special license, with the specific approval of the City Commission and in conformance with the conditions of such approval and the condition of a special license granted by the Michigan Liquor Control Commission.
- B. A person shall not possess any alcoholic liquor, as that term is defined in the Michigan Liquor Control Act, in a container which is open, uncapped or upon which the seal is broken, or consume any said alcoholic liquor on the Kalamazoo Mall, as that term is defined in § 19-2 of the Kalamazoo Code of Ordinances; provided, however, that said alcoholic liquor may be sold, possessed or consumed on the Kalamazoo Mall during the period of a special license with the specific approval of the City Commission and in conformance with the conditions of such approval and the condition of a special license granted by the Michigan Liquor Control Commission.



§ 22-42.1

§ 22-43

**§ 22-43. Curfew for minors — Imposed; parents not to allow violations. [P&L Code §§ PL301, PL302; amended 5-5-2008 by Ord. No. 1840]**

- A. It shall be unlawful for any minor under the age of 17 years to be in or on any street, alley or public place in the City between the hours of 12:00 midnight and 6:00 a.m., unless such person is:
  - (1) Accompanied by a parent or guardian or other person having legal custody and control of such minor;
  - (2) In the performance of an errand or duty directed in writing by his or her parent, guardian or other person having care or custody of such minor;
  - (3) In the performance of employment directed in writing by his or her employer;
  - (4) Returning directly home from attending a special entertainment of an instructive or beneficial character, for the attendance at which such minor shall have received permission, in writing, from his or her parent, guardian or other person having custody and control of the minor; or
  - (5) Operating a motor vehicle within the scope of his or her license.
- B. Notwithstanding the provisions of Subsection A above, it shall be unlawful for any minor under the age of 12 years to be in or on any street, alley or public place in the City between the hours of 10:00 p.m. and 6:00 a.m. unless such minor is accompanied by his or her parent, guardian or other person having custody and control of the minor.
- C. It shall be unlawful for any parent, guardian or other person having custody and control of the minor to allow such minor to violate this section, and for any person 17 years or older to assist, aid, abet or encourage a minor to violate this section.





§ 22-43

§ 22-44

**§ 22-44. Same — Arrest for violation; notice to parent and report to court. [P&L Code §§ PL303 - PL305]**

- A. Each member of the police force is hereby authorized to arrest, without warrant, any minor within his presence violating any provision of § 22-43. If such minor has not previously been so arrested, the police officer shall remove such minor to his home and place him in the charge of any parent, guardian or other person having the legal custody of such minor, or any other person over the age of 18 years, being a member of the family of such minor, who shall be upon the premises. If no such parent, guardian, person having the custody of such minor or member of the family over 18 years of age is upon the premises when such minor is returned, the officer shall make disposition as directed by a judge or agent of the county juvenile court.
- B. Whenever any minor is arrested under this section, written notice shall be given to the parent, guardian or other person having legal care or custody of such minor, such notice to be by personal service, or by leaving a copy thereof at his place of residence and informing any person upon the premises of suitable age and understanding of the contents thereof. Such notice shall be in substantially the following form:

To \_\_\_\_\_

You are hereby notified that on the \_\_\_\_\_ day of \_\_, A.D. \_\_, your minor child named \_\_\_\_\_, was arrested for being upon the streets of the City of Kalamazoo in violation of § 22-43 of the Code of Ordinances of the City of Kalamazoo, a copy of which is printed upon the back of this notice.

You are further notified that you shall see to it that said child shall, in the future, observe the provisions of said section, and for failure to do so, you shall be liable to the penalty provided for the violation of said section.

\_\_\_\_\_  
Chief of Police

Upon the back of every such notice, § 22-43 shall be printed in full.

- C. When any minor is arrested for violating § 22-43, the Police Department shall report, in writing, to the judge of the juvenile court of the county, the name of such minor, the date of the arrest and the name of the person upon whom the notice provided for in this section was served, and shall enter a record thereof in the office of the Police Department.



§ 22-44

§ 22-45

**§ 22-45. Same — Second violation. [P&L Code § PL306]**

Whenever a minor is arrested a second time for violation of § 22-43, it shall be the duty of the Police Department to seek a petition against such minor in the juvenile court, and further, to seek a warrant for any parent, guardian or other person having legal custody of such minor.



**§ 22-46. Vandalism. [Amended 5-15-1978 by Ord. No. 1133; 7-18-2022 by Ord. No. 2051]**

- A. It shall be unlawful for any person to commit an act of vandalism within the City of Kalamazoo.
- B. "Vandalism" shall mean the intentional destruction, damage, or defacement of any public or private property, real or personal, without the consent of the owner or person having lawful custody of said property. The said offense shall include, but not be limited to, actions taken by cutting, tearing, breaking, marking, painting, or drawing when such actions have the effect of destroying, damaging, or defacing said property.
- C. Penalty for vandalism.
  - (1) First offense. Any person found guilty of committing vandalism shall be punished by a fine not less than \$10 nor more than \$500 and/or 90 days in jail, for the first offense.
  - (2) Second and subsequent offenses. Any person found guilty of committing vandalism for the second time, or any subsequent time thereafter, within any two-year period, shall be fined not less than \$100 nor more than \$500, and shall be incarcerated in the City or county jail for a period of not less than two nor more than 90 days.
  - (3) Restitution. In addition to or in lieu of the fine and/or incarceration provided in Subsection C(1) and (2) above, any person found guilty of committing vandalism may be ordered by the court to make prompt restitution to the owner or person having lawful custody of said damaged property, by monetary payment or property repairs.



§ 22-46  
§ 22-47. through § 22-49. (Reserved)<sup>122</sup>

§ 22-47

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**122. Editor's Note: Former §§ 22-47, Penalty for vandalism, as amended; and 22-49, Removal of newspapers placed for pickup by City, as amended, were repealed 7-18-2022 by Ord. No. 2051. Section 22-48 was an existing reserved section.**





§ 22-47

§ 22-50

**§ 22-50. Disturbing the peace. [Amended 4-13-1981 by Ord. No. 1222]**

Any person or persons who shall make, or assist in making, any noise, disturbance, trouble, disorderly conduct, or do any other act which disturbs the peace shall be guilty of a misdemeanor.



**§ 22-51. Establishment of police line or clear zone. [Amended 4-13-1981 by Ord. No. 1222]**

- A. When any fire, accident, explosion, parade, calamity, public disturbance or other occasion causes or may cause persons to collect on the public streets, sidewalks or other areas of the City, the chief of public safety or officer acting for him may establish a police line or zone as may be necessary for the purpose of affording a clearing for:
- (1) The protection of persons and property;
  - (2) Police officers, firemen, or public safety officers, and emergency medical personnel; and other personnel performing operations in accordance with their duties;
  - (3) The exclusion of the public from the vicinity of a fire, accident, explosion, calamity, other emergency or public disturbances;
  - (4) The passage of a parade;
  - (5) The movement of traffic.
- B. Any person who shall knowingly cross any such line, knowingly enter into any such zone, or remain in any such zone after being requested to leave, shall be guilty of a misdemeanor. Provided, that bona fide and properly identified representatives of the press and media, residents of said zone, and such other persons as the chief of public safety or officer acting for him may authorize to cross such lines or be within such zone, may be permitted to cross such lines or enter into such zone, and may remain in such zone so long as they will not and do not interfere with emergency personnel performing their duties.
- C. Every person present within such zone shall comply with any necessary order or instruction of any police officer and any person who refuses to comply with the necessary order of a police officer shall be guilty of a misdemeanor.



§ 22-51

§ 22-52

**§ 22-52. Obstructing by disguise. [Amended 10-28-1985 by Ord. No. 1363]**

Any person who shall in any manner disguise himself or herself, or provide a false or fictitious name to a police officer or public safety officer, with intent to obstruct said officer in the performance of his or her duty, or with intent to intimidate, hinder or interrupt any police officer or public safety officer or any other person in the lawful performance of their duty or the exercise of any rights under the constitution and laws of this state or the ordinances of the City of Kalamazoo, whether such intent be effected or not, shall be guilty of a misdemeanor.



§ 22-52  
§ 22-53. (Reserved)<sup>123</sup>

§ 22-53

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**123.Editor's Note: Former § 22-53, Loitering, as amended, was repealed 6-3-2019 by Ord. No. 1991.**  
20A:149





- A. As used in this section, the following terms shall be defined as follows:

**ALARM SYSTEM** — A device or assembly of equipment or devices designed or arranged to signal the presence or existence of a hazard requiring urgent attention of public safety personnel. These systems include intrusion alarms, robbery alarms, fire alarms, medical emergency alarms and any other alarm which requires an emergency response by public safety personnel. Alarm systems monitoring temperature or humidity or which do not require any Department of Public Safety response whatsoever are excluded from this section.

**ALARM USER** — Any person who owns, possesses, controls or otherwise exercises dominion over a premises or property, or who regularly supervises the operation of any business thereon, on or in regard to which premises or property an alarm system is maintained, except for alarm systems within or on vehicles. But if an alarm system in or on a vehicle is connected, either by wire, signal or other means with an alarm system in or on other property, the person using such vehicle alarm system is an alarm user. A person owns or controls property if he is the grantee under a deed, purchaser under a land contract or a tenant.

**FALSE ALARM** — The activation of an alarm system resulting in a signal or call being received by the Kalamazoo Department of Public Safety when there is no immediate substantial threat to life, safety or property requiring their urgent attention in, on or at the property in regard to which the signal or call was sent.

**PERSON** — A natural person or a firm, organization, association, partnership or corporation.

- B. The alarm user shall be responsible under Subsection C below for all false alarms sent because of the activation of an alarm system in, on or in regard to his property, or because of the action or statement of any of his agents or employees if such action or statement was likely to result in the sending of an alarm; except when the agent or employee making the statement, taking the action or sending the alarm does so with the specific intention of sending a false alarm or causing one to be sent, or does so without caring whether the alarm is false.
- C. The fifth or subsequent false alarm occurring within the calendar year, and every false alarm thereafter from or in regard to the same premises or property, shall result in the alarm user being assessed a service fee. Fire and nonfire false alarms shall be counted separately. The service fee for false alarms, other than a false fire alarm, will be \$50. The service fee for false fire alarms will be \$100 for all locations. This subsection shall apply only to alarm users. The service fee may be waived by the chief of public safety or his designee in those cases of development of false alarm conditions not reasonably attributable to the alarm user or the alarm user's equipment.
- D. Knowingly sending a false alarm or causing it to be sent, or sending a false alarm without caring whether or not it is false, shall be a misdemeanor punishable by a fine of not more than \$500 or imprisonment for not more than 90 days, or both.
- E. Neither a proceeding nor the result thereof under this section shall waive, preclude or be a precondition of the City exercising, enforcing or invoking any other right of which the City might otherwise avail itself.
- F. If any fee rendered pursuant to Subsection C shall remain due and unpaid for a period of 30 days after the bill is mailed, it shall thereafter accrue interest at the rate of 6% per year from the date of the false alarm to which the bill applies. The City may collect the amounts owed by suit at law or may assess the same against the property. Such assessment shall constitute a lien upon the property and may be billed and collected as part of the tax applicable to the property.



§ 22-54

§ 22-55. **Weapons in schools or other educational facilities. [Amended 10-17-1988 by Ord. No. 1448]**

§ 22-55

- A. It shall be unlawful for any person, student or otherwise to possess or carry any weapon, as defined herein, within any school or other educational facility, or on the grounds thereof.
- B. "Weapon," for the purposes of this section, includes, but is not limited to, any knife or other cutting, stabbing or slashing instrument, blackjack, metallic knuckles, bludgeon, club, chain, gas-ejecting devices, explosives, fireworks, whether legal or otherwise, martial arts weapon, or any firearm, including any pistol, revolver, rifle, shotgun, slingshot, airgun, zip gun, flaregun, pellet gun, BB gun or the like. "Weapon" shall also include any belt, comb, file, compass or other object if adapted as a weapon and/or if used in a threatening or assaultive manner.
- C. This section shall not apply to a sworn police officer or public safety officer, or to any person otherwise authorized by law to carry any such weapon otherwise prohibited by this section.



§ 22-55  
§ 22-56. (Reserved)<sup>124</sup>

§ 22-56

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**124. Editor's Note: Former § 22-56, Loitering in places where controlled substances or drug paraphernalia are sold, dispensed, as amended, was repealed 6-3-2019 by Ord. No. 1991.**



§ 22-56

**§ 22-57. Consumption of alcoholic beverages in public places.** [Amended 10-21-1991 by Ord. No. 1518; 12-21-2020 by Ord. No. 2020; 7-18-2022 by Ord. No. 2051]

Except as provided for in § 33-25, no person shall consume or possess any uncapped, open container of any alcoholic liquor, as that term is defined in the Michigan Liquor Control Commission Act, on the public streets, parkways, or sidewalks of the City, or in any other place open to the general public, including any store or establishment doing business with the public not licensed to serve alcoholic beverages; provided, however, that alcoholic liquor may be sold, possessed and/or consumed during the period of a special license with the specific approval and in conformance with the conditions of such approval and the condition of a special license granted by the Michigan Liquor Control Commission.





§ 22-57

§ 22-58

**§ 22-58. Certain dangerous weapons other than firearms. [Amended 12-2-1991 by Ord. No. 1520]**

- A. No person shall, in any public place, any motor vehicle, or place open to the public, possess or have in his or her control any of the following items or their substantial equivalent: a blackjack, a sandclub or sandbag, brass or metal knuckles, nunchucks, a machete, stiletto, or bayonet. Any weapon possessed in violation of this section shall be seized and retained by the Department of Public Safety. This section shall not apply to peace officers or other persons authorized by law to carry such weapons. **[Amended 7-18-2022 by Ord. No. 2051]**
- B. It shall be unlawful for any person to use or brandish a club, bat, cane, knife, or similar object, in a manner and/or under circumstances that either manifest intent to cause harm or intimidate another person, or that would cause a reasonable person to fear for his or her safety.



§ 22-58  
§ 22-59. (Reserved)<sup>125</sup>

§ 22-59

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125. Editor's Note: Former § 22-59, Off-road vehicles, as amended 10-21-1991 by Ord. No. 1519, was repealed 7-19-2021 by Ord. No. 2035.  
20A:161



§ 22-59

§ 22-60

**§ 22-60. Access to firearms by minors. [Amended 3-1-1993 by Ord. No. 1551; 7-18-2022 by Ord. No. 2051]**

- A. Except as otherwise provided in this section, a person shall not leave a loaded firearm, or an unloaded firearm in close proximity to ammunition for that firearm, in any location where the person knows, or reasonably should know, that a minor may gain access to the firearm.
- B. This section shall not apply where:
  - (1) A minor's access to a firearm is supervised by a person 18 years of age or older;
  - (2) A firearm is in a locked gun cabinet or similar locked location, or is secured with a trigger lock or other similar device which prevents the firearm from discharging ammunition;
  - (3) A minor's access to a firearm was obtained as a result of an unlawful entry to the premises.
- C. Any person who violates any provision of this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of up to \$500 or imprisonment for 90 days, or both.



§ 22-60  
§ **22-61. (Reserved)**<sup>126</sup>

§ 22-61

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**126. Editor's Note: Former § 22-61, Forfeiture of weapons, as amended, was repealed 7-18-2022 by Ord. No. 2051.**





§ 22-61

§ 22-62

**§ 22-62. Smoking ban in parking ramps. [Amended 4-21-1997 by Ord. No. 1635]**

- A. It shall be unlawful for any person to smoke or carry any lighted cigarette, cigar, or pipe in any place in any parking ramp or parking structure owned by the City of Kalamazoo. This section shall not apply to smoking in a motor vehicle in which all windows and doors are fully closed.
- B. A person violating the provisions of this section shall be responsible for a municipal civil infraction. **[Amended 7-18-2022 by Ord. No. 2051]**



§ 22-62

§ 22-63. **Facsimile firearms.** [Added 9-6-2005 by Ord. No. 1791; amended 7-18-2022 by Ord. No. 2051]

§ 22-63

- A. It shall be unlawful to brandish a facsimile firearm in the City of Kalamazoo.
- B. It shall be unlawful to refuse to relinquish a facsimile firearm upon request of a police officer or public safety officer.
- C. A person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.



§ 22-63  
§ **22-64. (Reserved)**<sup>127</sup>

§ 22-64

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**127. Editor's Note: Former § 22-64, Social gathering regulation and responsibility, added 11-2-2009 by Ord. No. 1861, was repealed 7-18-2022 by Ord. No. 2051**



**§ 22-65. Breaking and entering of motor vehicles. [Added 3-18-2013 by Ord. No. 1907]**

- A. It shall be unlawful for any person to enter a motor vehicle unless the person:
- (1) Is the owner or lessee of the vehicle, or has some other contractual interest in the vehicle that would entitle the person to enter the vehicle;
  - (2) Is the owner or lessee of the real property upon which the vehicle is located; or
  - (3) Has permission to enter from an owner, a lessee, or an authorized operator of the motor vehicle, or the owner or lessee of the real property upon which the vehicle is located.
- B. This section shall not apply to:
- (1) A law enforcement officer acting within the scope of the officer's duties.
  - (2) A motor vehicle that is lawfully being moved because it is abandoned, inoperable, or improperly parked.
  - (3) An employee or agent of an entity that possesses a valid lien on a motor vehicle and who is expressly authorized by the lien holder to repossess the motor vehicle based upon the failure of the owner or lessee of the motor vehicle to abide by the terms and conditions of the loan or lease agreement.

C. As used in this section:

ENTER — Includes, but is not limited to, opening a door, trunk or hood of a vehicle, or inserting any part of one's body, or any object connected with the body, into a vehicle, which act shall include breaking the plane of an opened door, window, trunk or engine area.

MOTOR VEHICLE or VEHICLE — Any vehicle that falls within the definition of "motor vehicle" in the state's Michigan Vehicle Code.





**§ 22-66. Penalty for municipal civil infraction. [Added 7-18-2022 by Ord. No. 2051]**

Unless specifically provided otherwise, the penalty for a municipal civil infraction in this chapter shall be as follows:

- A. A fine of up to \$200 for each violation.
- B. An increased civil fine of not less than \$200 but not more than \$500 may be imposed for a second or subsequent violation committed by a person within any twelve-month period and for which the person admits responsibility or is determined to be responsible.



**Chapter 23**  
**(RESERVED)**



§ 22-66

**[Former Ch. 23, Parks and Recreation, which consisted of Art. I, In General, adopted 7-25-1983 by Ord. No. 1289, as amended; reserved Art. II; and Art. III, Parks and Recreation Advisory Board, adopted 1-6-1975 by Ord. No. 1042, as amended, was repealed 5-7-2018 by Ord. No. 1964. See now Ch. 2, Art. IV, and Ch. 33, Art. II.]**

§ 22-66



**Chapter 24**

**PAWNBROKERS; SECONDHAND DEALERS, PRECIOUS METAL AND GEM DEALERS,  
AND RECYCLING DEALERS**





§ 22-66

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 6-7-2021 by Ord. No. 2031<sup>128</sup>.  
Amendments noted where applicable.]**

§ 22-66

STATUTORY REFERENCES

Licenses for junk dealers and secondhand dealers — See MCLA §§ 446.205, 446.404, 446.405, § 445.401 et seq.

Requirement for and issuance and term of pawnbroker's license — See MCLA §§ 446.201, 446.202.

Requirement for pawnbrokers and secondhand dealers to keep records of identity of persons with whom they do business — See MCLA

Criminal history of precious metal and gem dealers — See MCLA §§ 445.481 et seq., 750.535.

Requirement for precious metal and gem dealers to keep records of transactions — See MCLA §§ 445.484 et seq.

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128. Editor's Note: This ordinance also repealed former Ch. 24, Pawnbrokers; Secondhand, Junk and Recycling Dealers, which comprised Art. I, General, adopted 7-1-2002 by Ord. No. 1736; and Art. II, Recycling Dealers, adopted 11-18-1996 by Ord. No. 1628.



**ARTICLE I**  
**Pawnbrokers And Secondhand Dealers**

**§ 24-1. Definitions.**

- A. As used in this article, the following terms shall have the meanings indicated:

**PAWNBROKER** — A person, corporation, or member or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

**PRINCIPAL OR PRIMARY BUSINESS** — More than 50% of the gross revenue of the business is derived from the purchasing, storing, selling, exchanging and receiving of secondhand goods.

**SECONDHAND DEALER** — Any person, corporation, or member or members of a copartnership or firm or other entity who engages in the principal or primary business of purchasing, storing, selling, exchanging and receiving secondhand goods.

**SECONDHAND GOODS** — Any goods, wares, merchandise or other personal property acquired or purchased after having been acquired at retail and used by another except as excluded herein. Such term includes, but is not limited to, appliances and radios, cameras, televisions, videocassette players and recorders, compact discs, digital video disks, CD and DVD players and recorders, software for computer games, computer or video games and computer or video gaming equipment, tools, guns, jewelry, musical instruments, sporting equipment, bicycles, lawn mowers and lawn equipment, snowblowers, typewriters, computers, and audio equipment such as home and vehicle stereos and speakers. Secondhand goods does not include new goods, clothing, household items, items normally handled by a recycling dealer as set forth in § 24-16 et seq. of the Kalamazoo City Code, and it does not include antiques or household furniture, books, magazines, trading cards, and tapestries.

**§ 24-2. License.**

- A. The City Clerk is designated and authorized to issue and revoke licenses for persons, corporations or firms to carry on the business of a pawnbroker or secondhand dealer pursuant to MCLA § 446.201 et seq., as amended, and MCLA § 445.401 et seq., as amended. A pawnbroker or secondhand dealer license shall not be issued to any person, corporation, firm or other entity that has failed to pay personal property taxes and real property taxes assessed for which penalties or interest have begun to accrue, or failed to pay other debts owing to the City.
- B. No person, corporation, or member or members of a copartnership or firm or other entity shall engage in the business of pawnbroker or secondhand dealer without first obtaining a license from the City Clerk. The license shall be valid for a period of one year commencing April 1 and ending March 30, unless suspended or revoked for cause. The license shall be renewable upon paying the annual fee. No license issued hereunder shall be transferable. For licenses of less than one year, the City Clerk shall designate on the license the time period that the license is in effect.
- C. The license fee shall be as set from time to time by the City Commission by motion or resolution. When annual licenses are applied for subsequent to November 1 of any year, the license fee shall be 1/2 of the annual fee for the balance of the license year. The City Clerk shall collect 1/2 of the license fee when the applicant initially applies. If the application is approved, the remainder of the license fee shall be paid before the license is issued. If the application is rejected, the portion of the fee paid shall be retained by the City to cover processing costs. For a pawnbroker license, a bond shall be provided as set forth in MCLA § 446.201 et seq., as amended.
- D. The City Clerk shall promptly provide a list of all pawnbroker and secondhand dealer licenses issued under

§ 24-2 this article to the Kalamazoo Department of Public Safety unless informed otherwise by the Kalamazoo Department of Public Safety. § 24-3

- E. All persons obtaining a pawnbroker or secondhand dealer license shall place the license conspicuously in full public view, in the room or structure in which the licensed occupation or act is being performed, as directed by the City Clerk.
- F. A person must comply with the requirements of each state statute and City ordinance relevant to the business being conducted. For example, licensure as a precious metal and gem dealer does not exempt a person from obtaining a license as a pawnbroker or a secondhand dealer. Licensure as a secondhand dealer does not exempt a person from obtaining a license as a pawnbroker or a precious metal and gem dealer. Licensure as a pawnbroker does not exempt a person from obtaining a license as a secondhand dealer or a precious metal and gem dealer.

**§ 24-3. Application, conditions, denial, hearing of license.**

- A. Application for a pawnbroker or secondhand dealer license shall be made in writing to the City Clerk, who is authorized to create application forms and to receive and process applications and to thereafter grant, deny, suspend or revoke said licenses as set forth in this article. Applications shall be on forms supplied by and to be filed with the City Clerk. Such application shall be signed and dated by the applicant or, if the applicant is not an individual, by an authorized representative. The applicant must prove his/her identification by means of a Michigan driver's license or Michigan identification card, or by similar identification from another state, or he/she must otherwise satisfy the City Clerk of his/her identity. The application shall contain the following minimum information, plus any other information deemed necessary by the City Clerk:
  - (1) The name and any alias used, and address and telephone number of the applicant and all employees, officers, partners or agents of the applicant;
  - (2) The location where the business is to be carried on plus any subsidiary offices and a brief description of the items to be sold;
  - (3) The applicant's criminal record, if any and, if the applicant is not an individual, the criminal record, if any, of the partners or officers of the corporation;
  - (4) The criminal record, if any, of any employees of the applicant;
  - (5) The applicant's prior experience as a secondhand dealer or pawnbroker;
  - (6) An authorization for the City Clerk and/or the Department of Public Safety to carry out a background investigation on the applicant and all employees, officers, partners or agents of the applicant;
  - (7) A statement as to whether the applicant has ever had any licenses required by the City of Kalamazoo or any other governmental entity revoked, suspended or denied and the reasons for said action.
  - (8) A statement that the information provided is true and accurate and that, if a license is granted, the applicant will abide by all applicable ordinances and statutes.
- B. All licenses are subject to the following conditions, which shall be noted on the application form:
  - (1) The applicant shall permit inspection of the licensed premises and/or activity at reasonable times by any representative of the City of Kalamazoo;
  - (2) The applicant shall not engage in the business of a pawnbroker or secondhand dealer at any time after the license has expired, without having been reissued, or at any time when the license is suspended or revoked.
  - (3) No license shall be issued or renewed unless and until the applicant and any and all employees, officers,

§ 24-3 partners or agents of the applicant shall, if deemed necessary by the Kalamazoo Department of Public Safety, submit to being fingerprinted and photographed as part of the background investigation. § 24-5

(4) The license is subject to suspension or revocation pursuant to §§ 24-7 and 24-8 of the City Code.

- C. The City Clerk shall issue a license to the applicant upon payment of the license fee, and if the City Clerk is satisfied that the applicant has met and will continue to meet the requirements of this chapter, and if the City Clerk is satisfied that the applicant's character and business history are satisfactory.
- D. The City Clerk shall deny an application for a pawnbroker or secondhand dealer license if the applicant has failed to pay real or personal property taxes assessed for which penalties or interest have begun to accrue or failed to pay other debts owing to the City of Kalamazoo. The City Clerk may deny an application for a pawnbroker or secondhand dealer license if the City Clerk is not satisfied that the applicant has met and will continue to meet the requirements of this chapter, or if the City Clerk is not satisfied that the applicant's character and business history is satisfactory. The City Clerk shall deny an application for a pawnbroker or secondhand dealer license if the applicant or any employees, officers, partners or agents of the dealer have been convicted within the last 10 years of any violation of this chapter or Chapter 25 or any similar ordinance in another jurisdiction, or convicted of any crime involving theft, dishonesty, receipt of stolen property or embezzlement within the last 10 years, or convicted of any felony within the last five years.
- E. If the City Clerk denies the issuance of a license or a renewal thereof, a notice of denial including the reasons for the denial shall be mailed first class to the applicant. If the application for a license has been denied, the applicant may appeal the denial by requesting a hearing pursuant to § 24-8 or may reapply at any time by submitting a new application and fee. The notice of denial shall provide that the applicant may request a hearing within 10 days to appeal the denial pursuant to § 24-8.

**§ 24-4. Identification and recordkeeping requirements.**

- A. All pawnbrokers and all secondhand dealers shall keep records of the identity of all persons with whom he or she does business and records of all property coming into his or her possession as required by MCLA §§ 446.205, 445.404 and 445.405. If not otherwise required by the applicable statute, the records shall also include:
  - (1) A photo of the property;
  - (2) A description of the property to include the make, model, and serial number if available and documentation of any unique identifiers such as initials or names that might be on the property;
  - (3) The amount paid for the item;
  - (4) The name, date of birth, driver's license number or state of Michigan personal identification card number, and street and house number of the customer; and
  - (5) The right thumbprint of the individual trading in, selling, or pawning the item. If it is not possible for the individual to provide his or her right thumbprint, then another specifically designated fingerprint shall be provided.
- B. Such records, the place where the secondhand dealer's or pawnbroker's business is carried on and all goods in that place of business or in control of the pawnbroker or secondhand dealer are subject to examination at any time by the City Attorney, the Kalamazoo Department of Public Safety, the City Clerk, the State Police, and the Kalamazoo County Prosecuting Attorney.

**§ 24-5. Electronic filing requirements.**

- A. The information required in § 24-4A must be provided within 24 hours after the property is received using the website or program specified by the Kalamazoo Department of Public Safety. Information and assistance

§ 24-5 concerning the website or program shall be provided by the Kalamazoo Department of Public Safety. § 24-6

B. Violation of this section shall result in a municipal civil infraction with a fine of up to \$500.

**§ 24-6. Police order to hold property in possession of pawnbroker.**

- A. If an officer of the Kalamazoo Department of Public Safety has probable cause to believe that property in the possession of a pawnbroker is misappropriated, or if a person files an official police report alleging misappropriation of property, the officer may place a written hold order on the property. All of the following apply to a written hold order under this subsection:
- (1) The hold order shall specify a holding period. The length of the holding period shall not exceed 90 days, unless extended by court order.
  - (2) The officer who placed the hold order may rescind it in writing.
  - (3) An officer may place only one hold order on a particular item of property.
  - (4) The hold order must include all of the following information:
    - (a) The name and mailing address of the pawnbroker.
    - (b) The name, title, and identification number of the officer who placed the hold order and, if applicable, the number assigned to the claim or report relating to the property.
    - (c) A complete description of the property in the possession of the pawnbroker, including model number and serial number, if applicable.
    - (d) The name of the person that reported that the property was misappropriated, unless otherwise prohibited by law.
    - (e) The expiration date of the holding period specified under Subsection A(4)(a).
- B. The officer must sign and date a copy of a written hold order he or she placed on an item of property under Subsection A as evidence that he or she placed the hold order and of the date the holding period specified under Subsection A(1) begins.
- C. On the 10th day after a hold order placed under Subsection A expires, if the pawnbroker has not received notice from a court that it has granted an extension of the hold order on the property, title to the property vests in and is considered conveyed by operation of law to the pawnbroker, free of any liability for claims but subject to any restrictions contained in the pawn transaction contract and subject to the provisions of this act.
- D. A court shall not grant an extension of a hold order placed on property under Subsection A unless a person that claims an interest in the property that is adverse to the pawnbroker or pawner has filed a report with a law enforcement agency and provided a copy of the report to the court and a copy of that report accompanies the notice from the court that it granted the extension described in Subsection C.
- E. Except as provided in Subsection F, a pawnbroker shall not release or dispose of property that is subject to a hold order under this section except pursuant to a court order, a written release from the officer, or the expiration of the holding period of the hold order described in Subsection A(1).
- F. While a hold order is in effect, on request, the pawnbroker must release the property that is subject to the hold order to the custody of the officer that placed the hold order for use in a criminal investigation or proceeding related to the ownership claim. The release of the property to the custody of the officer is not considered a waiver or release of the pawnbroker's property rights in, interest in, or lien on the property.
- G. An officer or any other person that obtains custody of property under this section shall not deliver the property

§ 24-6

to any person that claims ownership of the property unless both of the following are met:

§ 24-7

- (1) The property is delivered after a hearing at which a court determines the merits of the claims to the property.
  - (2) If the court finds against the pawnbroker, the court orders the pawner or seller of the item that was pawned or pledged to make restitution to the pawnbroker for all money that the pawnbroker advanced, and the total interest and charges accrued since the pawnbroker first advanced that money, together with reasonable attorney fees and costs that the pawnbroker incurred in defending the action related to the disputed property.
- H. If the court, after a hearing described in Subsection G(1) finds in favor of the pawnbroker, the property must be returned to the pawnbroker.
- I. A pawnbroker is not liable to any person for any property that is seized from the pawnbroker based on the pawnbroker's inability to return the property to that person because of the seizure.

#### **§ 24-7. Suspension with intent to revoke license.**

- A. Any pawnbroker's or secondhand dealer's license issued pursuant to this article may be suspended by the City Clerk, which shall be deemed a suspension with intent to revoke. The suspension with intent to revoke shall automatically become a revocation of the license unless the pawnbroker or secondhand dealer requests an appeal by requesting a hearing within 10 days pursuant to § 24-8 of the Kalamazoo City Code. If the City Clerk issues a notice of suspension with intent to revoke to a pawnbroker or secondhand dealer, the pawnbroker or secondhand dealer may not thereafter engage in the business of a pawnbroker or secondhand dealer until the license is reinstated. Such notice shall provide the reasons for the suspension with intent to revoke and shall inform the pawnbroker or secondhand dealer that the suspension with intent to revoke shall become a revocation of the license unless a hearing is requested within 10 days pursuant to § 24-8 of the Kalamazoo City Code. The notice shall also provide that during the suspension or revocation the license holder may not engage in the business of a pawnbroker or secondhand dealer until the license is reinstated or reissued. The notice shall also provide that if the license is revoked, that the license may not be reissued or reinstated until a period of one year has expired and the applicant has fulfilled all the requirements of this article, including the submission of a new application and application fee. The City Clerk is authorized to issue a notice of suspension with intent to revoke if any of the following exist:
- (1) Violations of the license conditions or any requirements of this article, regardless of whether a conviction results;
  - (2) Violations of other applicable federal, state or local laws, ordinances, rules or regulations, regardless of whether a conviction results;
  - (3) Acts or omissions which are unlawful, fraudulent or deceptive or beyond and contrary to the scope of the license granted, regardless of whether a conviction results;
  - (4) That the pawnbroker's or secondhand dealer's business has been abandoned;
  - (5) That statements made on the application were false and misleading;
  - (6) Failure to pay personal property taxes and real property taxes assessed against the dealer for which penalties or interest have begun to accrue or failure to pay other debts owing to the City;
  - (7) That the pawnbroker or secondhand dealer or any employees, officers, partners or agents of the pawnbroker or secondhand dealer have been convicted of any crime involving theft, dishonesty, receipt of stolen property or embezzlement within the last 10 years, or convicted of any felony within the last five years. The license shall not be subject to suspension if the conviction of an employee, officer, partner or agent of the pawnbroker or secondhand dealer for such a crime does not relate to the

§ 24-7 pawnbroker or secondhand dealer's business, provided the individual is no longer associated with the § 24-9 pawnbroker or secondhand dealer's business.

- B. A license which has been suspended pursuant to this section by the City Clerk may subsequently be reinstated by the City Clerk upon a showing to the City Clerk's satisfaction that the problems giving rise to the suspension have been rectified.
- C. A license which has been revoked pursuant to this article may not be reissued or reinstated until a period of one year has expired and the applicant has fulfilled all the requirements of this article, including the submission of a new application and application fee.

**§ 24-8. Denial and suspension/revocation appeal hearing procedure.**

- A. If the City Clerk has refused to issue a license or if a license is suspended with intent to revoke under this article, the aggrieved person is entitled to a de novo hearing by filing an appeal in writing with the City Manager within 10 days of the action by the City Clerk. The notice of appeal need not be on any particular form. The hearing shall be heard before the City Manager or his/her designee. The hearing shall commence at a time and place to be set by the City Manager's office, but in any event within 20 days of the filing of the appeal. The City Manager's office shall provide notice of the hearing to the aggrieved party, the City Clerk and the City Attorney.
- B. The City of Kalamazoo shall be represented at the hearing by the City Attorney or his/her designee. The aggrieved party may be represented by counsel. The hearing officer shall hear and receive appropriate testimony and material evidence from each party, giving full and fair consideration to all the evidence presented. Both parties shall be entitled to submit evidence, to cross-examine witnesses, and to make arguments concerning legal and factual issues. The Michigan Rules of Evidence shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs, and notice may be taken of facts within the general knowledge of the community. The hearing officer may limit arguments or the examination of witnesses if, in the hearing officer's discretion, the evidence or argument is irrelevant, repetitive or otherwise improper in the same manner that a judge could. The hearing officer shall ensure that the hearing is recorded unless both parties stipulate otherwise.
- C. After completion of the hearing, the hearing officer shall issue a written opinion setting forth findings of fact and the decision. If the hearing relates to a suspension with intent to revoke, the decision shall be issued within seven days. If the hearing relates to the failure of the City Clerk to issue a license, the decision shall be issued within 14 days.
- D. Any party aggrieved by the decision of the hearing officer may file leave to appeal said decision with the Kalamazoo County Circuit Court within 20 days of the decision of the hearing officer.

**§ 24-9. Violations; misdemeanor; enforcement.**

- A. Except as otherwise provided, any licensee, dealer, employee, person or entity who violates this article shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.
- B. Prosecutions for misdemeanor violations of this article may be commenced by summons and complaint or the issuance of an appearance ticket by the Kalamazoo Department of Public Safety. Further, the City of Kalamazoo may commence an action in Circuit Court for injunctive or other equitable or legal relief to prevent a continuing violation of this article.



**ARTICLE II**  
**Precious Metal And Gem Dealers**

**§ 24-10. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**AGENT OR EMPLOYEE** — A person who, for compensation or valuable consideration, is employed either directly or indirectly by a dealer.

**DEALER** — Any person, corporation, partnership, or association which, in whole or in part, engages in the ordinary course of repeated and recurrent transactions of buying or receiving precious items from the public within this state.

**GOLD** — Elemental gold having an atomic weight of 196.967 and the chemical element symbol of Au, whether found by itself or in combination with its alloys or any other metal.

**JEWELRY** — An ornamental item made of a material that includes a precious gem.

**PLATINUM** — Elemental platinum having an atomic weight of 195.09 and the chemical element symbol of Pt, whether found by itself or in combination with its alloys or any other metal.

**PRECIOUS GEM** — A diamond, alexandrite, ruby, sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet, jadeite, topaz, tourmaline, turquoise, or pearl.

**PRECIOUS ITEM** — Jewelry, a precious gem, or an item containing gold, silver, or platinum. Precious item does not include the following:

- A. Coins, commemorative medals, and tokens struck by, or in behalf of, a government or private mint.
- B. Bullion bars and discs of the type traded by banks and commodity exchanges.
- C. Items at the time they are purchased directly from a dealer registered under this act, a manufacturer, or a wholesaler who purchased them directly from a manufacturer.
- D. Industrial machinery or equipment.
- E. An item being returned to or exchanged at the dealer where the item was purchased and that is accompanied by a valid sales receipt.
- F. An item which is received for alteration, redesign, or repair in a manner that does not substantially change its use and returned directly to the customer.
- G. An item which does not have a jeweler's identifying mark or a serial mark and which the dealer purchases for less than \$5.
- H. Scrap metal which contains incidental traces of gold, silver, or platinum that are recoverable as a by-product.
- I. Jewelry which a customer trades for other jewelry having a greater value, and which difference in value is paid by the customer.

**SILVER** — Elemental silver having an atomic weight of 107.869 and the chemical element symbol of Ag, whether found by itself or in combination with its alloys or any other metal.

**§ 24-11. Certificate of registration.**

- A. A dealer shall not conduct business in the City unless the dealer has obtained a valid certificate of registration from the City Clerk.
- B. A dealer shall apply to the City Clerk for a certificate of registration and pay a fee of \$25 to cover the

§ 24-11 reasonable cost of processing and issuing the certificate of registration. Applications shall be on forms § 24-12 supplied by and to be filed with the City Clerk that contain the following information:

- (1) The name, home address and phone number, date of birth and thumbprint of the applicant; if the applicant is a business entity, the information shall be provided by the representative/agent.
  - (2) Written proof of identity, such as driver's license, birth certificate, state identification, passport or affidavit.
  - (3) The name and business address and phone number under which the applicant does business.
  - (4) The name and address of all other businesses presently operated by the applicant under a precious metal and gems business within the State of Michigan.
  - (5) The name, address, and thumbprint of all agents or employees of the dealer. Within 24 hours after hiring a new employee, the dealer shall forward to the local police agency the name, address, and thumbprint of the new employee.
  - (6) A statement as to whether the applicant, agent or employee has been convicted of, or pled guilty or no contest to, any violation of the Precious Metal and Gem Dealer Act, Public Act 95 of 1981, as amended, or Section 535 of the Michigan Penal Code, found at MCLA § 750.535, or any corresponding local law adopted pursuant to the Act.
  - (7) The application shall be signed by the applicant or, if a business entity, by the representative/agent, and dated.
- C. A dealer or an agent or an employee of a dealer who is convicted of a misdemeanor under this chapter, or in violation of the Precious Metal and Gem Dealer Act, Public Act 95 of 1981, as amended, or Section 535 of the Michigan Penal Code, found at MCLA § 750.535, shall be denied a certificate of registration for a period of one year after conviction. A dealer or an agent or an employee of a dealer who is convicted of a felony in violation of MCLA § 445.481 et seq. or MCLA § 750.535, shall be denied a certificate of registration for a period of five years after the conviction.
- D. The City Clerk shall issue the certificate of registration to the applicant upon payment of the registration fee, and if the City Clerk is satisfied that the applicant has met and will continue to meet the requirements of this article, and if the City Clerk is satisfied that the applicant's character and business history are satisfactory.
- E. Upon receipt of the certificate of registration, the dealer shall post it in a conspicuous place in the dealer's place of business.
- F. A person must comply with the requirements of each state statute and city ordinance relevant to the business being conducted. For example, licensure as a precious metal and gem dealer does not exempt a person from obtaining a license as a pawnbroker or a secondhand dealer. Licensure as a secondhand dealer does not exempt a person from obtaining a license as a pawnbroker or a precious metal and gem dealer. Licensure as a pawnbroker does not exempt a person from obtaining a license as a secondhand dealer or a precious metal and gem dealer.
- G. A certificate of registration under this article is not assignable or transferable.

#### § 24-12. Record of transactions.

- A. A dealer shall maintain a record of each transaction as required by MCLA § 445.484 et seq., as amended. If not otherwise required by the applicable statute, the records shall include:
- (1) A photo of the property;
  - (2) A description of the property to include the make, model, and serial number if available and

- § 24-12 documentation of any unique identifiers such as initials or names that are on the property; § 24-15
- (3) The amount paid for the item;
  - (4) The name, date of birth, driver's license number or State of Michigan personal identification card number, and street and house number of the customer; and
  - (5) The right thumbprint of the customer. If it is not possible for the individual to provide his or her right thumbprint, then another specifically designated fingerprint shall be provided.
- B. Such records and each precious item received shall be open to an inspection by the City Attorney, the Kalamazoo Department of Public Safety, the City Clerk, the State Police, and the Kalamazoo County Prosecuting Attorney at all times during the ordinary business hours of the dealer. The records shall not be open to inspection by the general public.

**§ 24-13. Electronic filing requirements.**

- A. Reports containing the information required in § 24-12A must be provided within 24 hours after the property is received using the website or program specified by the Kalamazoo Department of Public Safety. Information and assistance concerning the website or program shall be provided by the Kalamazoo Department of Public Safety.
- B. Violation of this section shall result in a municipal civil infraction with a fine of up to \$500.

**§ 24-14. Retention of transaction.**

Except as otherwise provided by state law, each record of a transaction shall be retained by the dealer for not less than one year after the transaction to which the record pertains.

**§ 24-15. Violations; penalty.**

- A. Except as otherwise provided, any licensee, dealer, employee, person or entity who violates this article shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.
- B. Prosecutions for misdemeanor violations of this article may be commenced by summons and complaint or the issuance of an appearance ticket by the Kalamazoo Department of Public Safety. Further, the City of Kalamazoo may commence an action in Circuit Court for injunctive or other equitable or legal relief to prevent a continuing violation of this article.



**ARTICLE III**  
**Recycling Dealers**

DIVISION 1  
**Generally**

**§ 24-16. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**LICENSE YEAR** — That period from the first day of September through the 31st day of August of the following year.

**RECYCLING DEALER** — Any person (which shall include any corporation, partnership or any other commercial enterprise) who shall conduct or maintain as a business any building, structure, yard or place for keeping, sorting, storing, exchanging, buying or selling (including selling by consignment) any old or used recyclable or reusable material of any kind, including cloth, rags, paper, rubbish, rubber, bottles, iron, steel, brass, copper or any other metals, old boxes, cartons, crates, plastics, rubber tires, glass or refuse or dismantled or cannibalized vehicles or vehicle parts, equipment or liquids from such vehicles.

**§ 24-17. Maintenance of premises generally.**

- A. A recycling dealer's business shall be conducted at all times in compliance with all applicable ordinances of the City and laws of the state.
- B. A recycling dealer shall maintain the premises used in the conduct of the business so that rats, vermin and all other hazards to health are kept to a reasonable minimum and under control at all times, and shall comply promptly with all requests and directives of the County Health Department.

**§ 24-18. Outside storage facilities.**

Any recycling dealer who keeps, sorts or stores recycling materials outside shall comply with all applicable requirements set forth in Appendix A, Zoning Ordinance.

**§ 24-19. Business not to create nuisance; operation of rubbish dump prohibited.**

A recycling dealer's business shall be conducted so as to not create a nuisance by reason of noise, odors, smoke, fumes, vibration or any other reason or condition, and no rubbish dump shall be operated or permitted in conjunction therewith.

**§ 24-20. Noise control.**

A recycling dealer's business shall be conducted at all times in accordance with the noise restrictions set forth in Chapter 21 of the Kalamazoo City Code.<sup>129</sup> No heavy sorting shall take place and no break-up hammers shall be used on such premises between the hours of 9:00 p.m. and 7:00 a.m.

**§ 24-21. Open burning.**

No burning of rubber or other substances which may pollute the air shall be permitted on premises used for a recycling dealer's business and any fires lighted or maintained upon such premises shall be subject to all reasonable rules and directives of the Chief of the Public Safety Department or the Fire Marshal.

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<sup>129</sup>Editor's Note: See Ch. 21, Nuisances, Art. II, Noise.

§ 24-22

§ 24-23

**§ 24-22. Obstruction of adjoining streets, sidewalks, etc., prohibited.**

All streets, sidewalks, alleys or rights-of-way, public or private, adjoining property used for a recycling dealer business shall be kept free of obstructions caused by the maintenance or operation of such business at such location.

**§ 24-23. Through § 24-32. (Reserved)**

DIVISION 2  
Licenses

**§ 24-33. Required.**

No person (directly, indirectly or by an agent or employee) shall engage in the business of being a recycling dealer within the City, without first obtaining a license issued pursuant to this division.

**§ 24-34. Application.**

- A. Application for a recycling dealer's license shall be made, in writing, to the City Clerk, who shall be authorized to receive and process said applications and to thereafter grant, deny, suspend or revoke said licenses. Application shall be on forms supplied by and to be filed with the City Clerk. Such application, which shall be signed and dated by the applicant, shall contain:
- (1) The name and address of the applicant;
  - (2) The location where the business is to be carried on;
  - (3) The applicant's criminal record, if any;
  - (4) The applicant's prior experience as a recycling dealer;
  - (5) A statement that the information provided is true and accurate and that, if a license is granted, the applicant will abide by all applicable ordinances; and
  - (6) Such other information as may be deemed necessary by the City Clerk for the proper issuance and enforcement of a license.
- B. Each application shall have attached to it a fully dimensioned site plan of the entire property showing the location of all buildings, parking spaces, storage areas, fences or walls, gates and landscaping and all other features required by the applicable zoning requirements.

**§ 24-35. License conditions.**

- A. All licenses are issued subject to the following conditions, which shall be noted on the application form:
- (1) The applicant shall permit inspection of the licensed premises and/or activity at reasonable times by any properly identified officer or employee of the City;
  - (2) The applicant's license may be temporarily suspended by the City Clerk without prior notice or hearing when Development Services determines that such a suspension is necessary on an emergency basis to preserve the public health, safety or welfare;
  - (3) The applicant shall comply with all applicable federal, state and local laws, ordinances, rules and regulations during the term of the license; and
  - (4) The applicant shall not engage in the recycling dealer's business at any time after the license has expired, without having been reissued, or at any time when the license is suspended or revoked.
- B. No license shall be issued unless and until the applicant has paid all personal property taxes and real property taxes assessed against the applicant for which penalties or interest have begun to accrue and unless the applicant has paid all other debts due and owing to the City.

**§ 24-36. Fee.**

The annual fee for a license required by this division shall be as set from time to time by the City Commission by

§ 24-36 motion or resolution. If a license is applied for after March 1 of any year, the license fee shall be 1/2 the annual fee, § 24-43 for the balance of the license year.

**§ 24-37. Issuance procedure.**

- A. On receiving an application for a license under this division, the City Clerk shall immediately transmit the same to the Director of Development Services, who, after consultation with the Department of Public Safety and the City Treasurer, shall promptly cause a report to be prepared regarding the applicant and any other matters pertinent to the issuance of the license. The report shall recommend for or against issuance of the license and shall contain information regarding:
- (1) Whether there is compliance with all applicable laws, ordinances, rules and regulations relating to health, sanitation, building, zoning, fire code and all other applicable regulations and requirements of the City and the State of Michigan relative to fire safety, health, sanitary, building and zoning laws, rules and regulations at the proposed recycling dealer's place of business; and
  - (2) The applicant's criminal history, if any, and whether there is any evidence that the applicant cannot serve the public in a fair, honest and open manner; and
- B. Upon receiving such report, the City Clerk shall either approve or deny the license in accordance with the said report's recommendation. If the City Clerk approves the license, it shall be issued upon payment of the appropriate license fees.

**§ 24-38. Denial of license.**

If the City Clerk denies the issuance of a license, the reasons for doing so shall be set forth in writing and mailed first-class to the applicant. The applicant may request a hearing to review the decision, pursuant to the procedures set forth in § 24-45.

**§ 24-39. Certain officials to be notified of issuance.**

It shall be the duty of the City Clerk to notify the Director of Development Services of all licenses issued under the provisions of this division within five business days of issuance.

**§ 24-40. Display.**

Every license issued under this division shall be conspicuously displayed at the recycling dealer's place of business.

**§ 24-41. Not transferable.**

No license issued under this division shall be transferable.

**§ 24-42. Expiration.**

Every license issued under this division shall automatically expire on the following September 1; the conduct of any business under such license shall immediately cease upon such date unless and until a new license has been secured in accordance with the provisions of this division.

**§ 24-43. Suspension or revocation.**

- A. Any license issued pursuant to this article shall thereafter be indefinitely suspended by the City Clerk when Development Services determines that, regarding the recycling dealer, any of the following exist:
- (1) Violations of the license conditions;



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- (2) Violations of this article;
  - (3) Violations of other applicable federal, state or local laws, ordinances, rules or regulations;
  - (4) Acts or omissions which are unlawful, fraudulent or deceptive or beyond and contrary to the scope of the license granted;
  - (5) That the recycling dealer's business has been abandoned;
  - (6) That statements made on the recycling dealer's application were false; or
  - (7) Failure of the recycling dealer to pay taxes (for which interest or penalties have accrued) or other debts due to the City; or
  - (8) That the license holder has been convicted of a felony involving theft, receipt of stolen property or embezzlement.
- B. A license which has been suspended by the City Clerk may subsequently be reinstated by the City Clerk upon a showing to Development Services' satisfaction that the problems giving rise to the original suspension have been corrected.

**§ 24-44. Suspension and revocation; procedure.**

- A. Before suspending or revoking a license, the City Clerk shall mail, by first class mail, to the license holder a notice of intent to suspend/revoke. Said notice shall include the following:
- (1) Notice that the license will be suspended or revoked unless the license holder, within 10 days, requests (in writing) a hearing; and
  - (2) A recitation of the facts which support the belief that cause exists to take the proposed action.
- B. If a written request for a hearing is not received, within the time allowed, the City Clerk shall issue a notice of suspension/revocation. Said notice shall include the following:
- (1) The date the earlier notice of intent to suspend/revoke was mailed;
  - (2) The fact that a hearing was not requested in a timely fashion, by the license holder;
  - (3) The fact that the license is suspended or revoked and that the former license holder shall not engage in the business of recycling dealing unless and until the license is reinstated or a new license is issued;
  - (4) The fact that a license which has been suspended may be reinstated upon a showing, that the problems which gave rise to the suspension have been corrected; and
  - (5) The fact that the former license holder may request (in writing) a hearing to contest the suspension or revocation.
- C. Upon the determination by Development Services that a suspension of the recycling dealer's license is necessary on an emergency basis to preserve the public health, safety or welfare, the City Clerk shall issue a notice of immediate suspension. Said notice shall include the following:
- (1) A recitation of the facts supporting the action taken;
  - (2) The fact that the license has been suspended or revoked and that the former license holder shall not engage in the business of recycling dealing unless and until the license is reinstated or a new license is issued; and
  - (3) The fact that the former license holder may request a hearing to contest the suspension or revocation.

**§ 24-45. Hearings.**

- A. Upon the filing of a request with the City Clerk, a person is entitled to a de novo hearing regarding:
  - (1) The City Clerk's denial of a license application;
  - (2) The City Clerk's issuance of a notice of intent to suspend/revoke;
  - (3) The City Clerk's issuance of a notice of suspension/revocation; or
  - (4) The City Clerk's issuance of notice of immediate suspension/revocation.
- B. The City Clerk shall immediately forward a copy of a request for a hearing to the City Manager, who shall refer the matter to the designated hearing officer.
- C. A hearing which relates to the City Clerk's issuance of a notice of immediate suspension/revocation shall occur within 10 days of the receipt by the City Clerk of the former license holder's request for hearing. All other hearings shall occur within a reasonable time.
- D. The license holder (or former license holder) shall be notified of the time, date and place of the hearing as soon as practicable. The license holder (or former license holder) shall be entitled to be represented by counsel, to submit evidence, to cross-examine testifying witnesses, and to make arguments concerning the factual and legal issues. The rules of evidence shall be followed as far as practicable, but a hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Notice may be taken of facts within the general knowledge of the community. The hearing officer shall ensure that the entire hearing is recorded.
- E. After a hearing has occurred, the hearing officer shall issue a written opinion setting forth findings of fact and a decision. When the hearing relates to a notice of immediate suspension/revocation, the written opinion shall be issued within seven days of the date of the hearing. In all other hearings, the written opinion shall be issued within a reasonable time.

**§ 24-46. Appeal.**

An owner aggrieved by any final decision of the City pursuant to this article may file a petition for an order of superintending control with the Kalamazoo County Circuit Court so long as said petition is filed within 20 days from the date of the mailing of the City's decision to the licensee.

**§ 24-47. Misdemeanor.**

Any person found violating any provision within this article shall be deemed guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both.

**§ 24-48. Enforcement.**

Prosecutions for violations of this article may be commenced by the issuance of an appearance ticket, which may be issued and served by Development Services. In addition or in the alternative, the City may suspend or revoke the recycling dealer's license or may commence an injunctive action in the Circuit Court to prevent a continuing violation.

**Chapter 25**

**PEDDLERS; SOLICITORS; TRANSIENT MERCHANTS AND PHOTOGRAPHERS**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section and article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**County food ordinance adopted by City — See § 1-6B(1).**

**Begging prohibited — See § 22-18.**

**Municipal market — See Ch. 20.**

**Pawnbrokers; secondhand, junk and recycling dealers — See Ch. 24.**

**Selling by outcry in residential districts — See § 21-12.**

**Weights, scales and measures — See Ch. 39.**



**STATUTORY REFERENCES**

**Charitable Organizations and Solicitations Act — See MCLA § 400.271 et seq.**      **Transient merchants — See MSA § 19.691 et seq.; MCLA § 445.371 et seq.**





ARTICLE I  
**In General**  
**[Adopted 7-1-2002 by Ord. No. 1737]**

**§ 25-1. General provisions relating to licenses required by this chapter.**

- A. Application of section. The provisions of this section shall apply to licenses for peddlers and transient merchants issued under this chapter; provided, however, that if any provision of the section is in conflict with any provision of this chapter relating to a specific activity, the more specific terms shall prevail. This section shall not apply to permits required by Article V and Article VI of this chapter. No person shall engage in the activities regulated by this chapter without first obtaining a license for said activity from the City Clerk.
- B. Expiration: license year. All annual licenses granted hereunder shall expire upon the 30th day of April following the day of their issuance. A "license year" is defined to be that period from the first day of May in each year to and including the 30th day of April following. For licenses of less than one year, the City Clerk shall designate on the license the time period that the license is in effect.
- C. Fees, proration. The license fee shall be as set from time to time by the City Commission by motion or resolution. When annual licenses are applied for subsequent to November first of any year, the license fee shall be 1/2 of the annual fee for the balance of the license year. The City Clerk shall collect 1/2 of the license fee when the applicant initially applies. If the application is approved, the remainder of the license fee shall be paid before the license is issued. If the application is rejected, the portion of the fee paid shall be retained by the City of Kalamazoo to cover processing costs.
- D. List of licenses to be provided to the Kalamazoo Department of Public Safety. The City Clerk shall promptly provide to the Kalamazoo Department of Public Safety a list of all licenses issued under this chapter unless informed otherwise by the Kalamazoo Department of Public Safety.
- E. Display of license. All persons obtaining any license issued under this chapter shall place the license conspicuously in full public view, in the room or structure in which the licensed occupation or act is being performed, or upon the wagon, motorized vehicle or other type of conveyance used by the licensee in the performance of the licensed occupation or act, or upon the person of the licensee, as directed by the City Clerk.
- F. License not transferable; suspension and revocation. Any license granted under this chapter shall not be transferable and is subject to suspension and revocation as provided in §§ 25-3 and 25-4.
- G. Recognized religious or charitable organizations, license not required. A peddler's or transient merchant's license shall not be required for a person representing any recognized religious or charitable organization which has a valid license under the provisions of Act No. 169 of the Public Acts of 1975, MCLA § 400.271 et seq., as amended.

**§ 25-2. Peddlers and transient merchants license — Application, conditions, fee, denial, hearing.**

- A. Application for a peddler's or transient merchant's license shall be made in writing to the City Clerk, who is authorized to create application forms and to receive and process applications and to thereafter grant, deny, suspend or revoke said licenses as set forth in this chapter. Applications shall be on forms supplied by and to be filed with the City Clerk. The application shall be signed and dated by the applicant. The applicant must prove his/her identification by means of a Michigan driver's license or Michigan identification card, or by similar identification from another state, or he/she must otherwise satisfy the City Clerk of his/her identity. The application shall contain the following minimum information, plus any other information deemed necessary by the City Clerk:
  - (1) The name and any alias used, and address and telephone number of the applicant and the supervisor of

§ 25-2

the applicant if the applicant is working for a firm, association, company or corporation;

§ 25-2

- (2) The area or location where the activity is to be carried on, including storage facilities if applicable, plus any subsidiary offices and a brief description of the items to be sold, and at what times and in what manner;
- (3) The length of time for which the license is requested;
- (4) The applicant's criminal record, if any, and if the applicant's employer is furnishing the goods to be sold, the names of the partners, officers or agents of the firm, association, company or corporation that will be engaged in the activity to be licensed or supervising the same;
- (5) The applicant's prior experience as a peddler or transient merchant;
- (6) An authorization for the City Clerk and/or the Kalamazoo Department of Public Safety to carry out a background investigation on the applicant and if the applicant's employer is furnishing the goods to be sold, the partners, officers or agents of the firm, association, company or corporation that will be engaged in the activity to be licensed or supervising the same;
- (7) A statement as to whether the applicant has ever had any licenses required by the City of Kalamazoo or any other governmental entity relating in any manner to the sale of goods revoked, suspended or denied and the reasons for said action.
- (8) A statement that the information provided is true and accurate and that, if a license is granted, the applicant will abide by all applicable ordinances, statutes, regulations and other applicable laws.

B. All licenses are subject to the following conditions, which shall be noted on the application form:

- (1) The applicant shall permit inspection of the goods to be sold, and in the case of a transient merchant, the place the business is being conducted from, at reasonable times by any representative of the City of Kalamazoo;
- (2) The applicant shall not engage in the business of a peddler or transient merchant at any time after the license has expired, without having been reissued, or at any time when the license is suspended or revoked;
- (3) That the applicant shall post the license in a conspicuous location in the place where the business is being conducted, where it shall remain in plain sight at all times that the business is being carried on;
- (4) No license shall be issued or renewed unless and until the applicant, and if the applicant's employer is furnishing the goods to be sold, the partners, officers or agents of the firm, association, company or corporation that will be engaged in the activity to be licensed or supervising the same, if deemed necessary by the Kalamazoo Department of Public Safety, submit to being fingerprinted and photographed as part of the background investigation.
- (5) The license is subject to suspension or revocation pursuant to §§ 25-3 and 25-4 of the City Code.

C. The City Clerk shall issue a license to the applicant upon payment of the annual or prorated license fee or short term license fee, and if the City Clerk is satisfied that the applicant has met and will continue to meet the requirements of this chapter, and if the City Clerk is satisfied that the applicant's character and business history is satisfactory.

D. The City Clerk shall deny an application for a peddler's or transient merchant's license if the applicant or the applicant's employer or supplier has failed to pay real or personal property taxes assessed for which penalties or interest have begun to accrue or failed to pay other debts owing to the City of Kalamazoo. The City Clerk may deny an application if the City Clerk is not satisfied that the applicant has met and will continue to meet the requirements of this chapter, or if the City Clerk is not satisfied that the applicant's character and business

- § 25-2 history is satisfactory. The City Clerk shall deny an application for a peddler's or transient merchant's license if the applicant, or if the applicant's employer or supplier, or the partners, officers or agents of the firm, association, company or corporation that will be engaged in the activity to be licensed or supervising the same, have been convicted within the last 10 years of any violation of this chapter or Chapter 24 or any similar ordinance in another jurisdiction, or convicted of any crime involving theft, dishonesty, receipt of stolen property or embezzlement within the last 10 years, or convicted of any felony within the last five years. No peddler's license for door to door sales shall be granted to any person who has been convicted of a "listed offense" pursuant to the Sex Offenders Registration Act, MCLA § 28.722(d), as amended. § 25-3
- E. If the City Clerk denies the issuance of a license or a renewal thereof, a notice of denial including the reasons for the denial shall be hand delivered to or mailed first class to the applicant. If the application for a license has been denied, the applicant may appeal the denial by requesting a hearing pursuant to § 25-4 or may reapply at any time by submitting a new application and fee. The notice of denial shall provide that the applicant may request a hearing within 10 days to appeal the denial pursuant to § 25-4.

**§ 25-3. License — Suspension with intent to revoke.**

- A. Any license issued pursuant to this chapter may be suspended by the City Clerk, which shall be deemed a suspension with intent to revoke. The suspension with intent to revoke shall automatically become a revocation of the license unless the licensee requests an appeal by requesting a hearing within 10 days pursuant to § 25-4 of the Kalamazoo City Code. The City Clerk shall issue a notice of suspension with intent to revoke to the licensee, who may not thereafter engage in the activities authorized by the license until the license is reinstated. Such notice shall provide the reasons for the suspension with intent to revoke and shall inform the licensee that the suspension with intent to revoke shall become a revocation of the license unless the licensee requests a hearing within 10 days pursuant to § 25-4 of the Kalamazoo City Code. The notice shall also provide that if the license is revoked and during the period of suspension, that the license holder may not engage in the business authorized by the license until the license is reinstated or reissued. The notice shall also provide that if the license is revoked, that the license may not be reissued or reinstated until a period of one year has expired and the applicant has fulfilled all the requirements of this chapter including the submission of a new application and application fee. The City Clerk is authorized to issue a notice of suspension with intent to revoke if any of the following exist:
- (1) Violations of the license conditions or any requirements of this chapter, regardless of whether a conviction results;
  - (2) Violations of other applicable federal, state or local laws, ordinances, rules or regulations, regardless of whether a conviction results;
  - (3) Conducting business in a manner as to constitute a breach of the peace, or conducting business while intoxicated or under the influence of a controlled substance;
  - (4) Acts or omissions which are unlawful, fraudulent or deceptive or beyond and contrary to the scope of the license granted, regardless of whether a conviction results;
  - (5) That the licensee is selling or is attempting to sell stolen goods, or food that is not fit for human consumption;
  - (6) That statements made on the application were false and misleading;
  - (7) Failure to pay real or personal property taxes assessed against the licensee or the licensee's employer or supplier for which penalties or interest have begun to accrue or failure to pay other debts owing to the City.
  - (8) That the licensee or any employees, officers, partners or agents of the licensee have been convicted of any crime involving theft, dishonesty, receipt of stolen property or embezzlement within the last 10

§ 25-3 years, or convicted of any felony within the last five years. The license shall not be subject to suspension if the conviction of an employee, officer, partner or agent of the licensee for such a crime does not relate to licensee's business, providing the individual is no longer associated with the licensee's business. § 25-6

- B. A license which has been suspended pursuant to this section by the City Clerk may subsequently be reinstated by the City Clerk upon a showing to the City Clerk's satisfaction that the problems giving rise to the suspension have been rectified.
- C. A license which has been revoked pursuant to this chapter may not be reissued or reinstated until a period of one year has expired and the applicant has fulfilled all the requirements of this chapter, including the submission of a new application and application fee.

**§ 25-4. Denial and suspension/revocation appeal hearing procedure.**

- A. If the City Clerk has refused to issue a license or if a license is suspended with intent to revoke under this chapter, the aggrieved person is entitled to a de novo hearing by filing an appeal in writing with the City Manager within 10 days of the action by the City Clerk. The notice of appeal need not be on any particular form. The hearing shall be heard before the City Manager or his/her designate. The hearing shall commence at a time and place to be set by the City Manager's Office, but in any event within 20 days of the filing of the appeal. The City Manager's Office shall provide notice of the hearing to the aggrieved party, the City Clerk and the City Attorney.
- B. The City of Kalamazoo shall be represented at the hearing by the City Attorney or his/her designate. The aggrieved party may be represented by counsel. The hearing officer shall hear and receive appropriate testimony and material evidence from each party, giving full and fair consideration to all the evidence presented. Both parties shall be entitled to submit evidence, to cross examine witnesses, and to make arguments concerning legal and factual issues. The Michigan Rules of Evidence shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs, and notice may be taken of facts within the general knowledge of the community. The hearing officer may limit arguments or the examination of witnesses if in the hearing officer's discretion the evidence or argument is irrelevant, repetitive or otherwise improper in the same manner that a judge could. The hearing officer shall ensure that the hearing is recorded unless both parties stipulate otherwise.
- C. After completion of the hearing, the hearing officer shall issue a written opinion setting forth findings of fact and the decision. If the hearing relates to a suspension with intent to revoke, the decision shall be issued within seven days. If the hearing relates to the failure of the City Clerk to issue a license, the decision shall be issued within 14 days.
- D. Any party aggrieved by the decision of the hearing officer may file leave to appeal said decision with the Kalamazoo County Circuit Court within 20 days of the decision of the hearing officer.

**§ 25-5. Violations, misdemeanor, enforcement.**

- A. Any person, corporation, or member or members of a copartnership or firm or other entity violating any provision of this chapter shall be deemed guilty of a misdemeanor for each and every day such violation exists.
- B. Prosecutions for violations of this chapter may be commenced by arrest, complaint and warrant, or the issuance of an appearance ticket by an officer of the Kalamazoo Department of Public Safety or other City employee as designated by the City Manager. Further, the City of Kalamazoo may commence an action in Circuit Court for injunctive or other equitable or legal relief to prevent a continuing violation of this Article.

**§ 25-6. Peddling stale, unwholesome, etc., food. [P&L Code §§ PL1204.10, PL1204.11]**

- § 25-6
- § 25-16
- A. It shall be unlawful for any peddler, whether licensed or not, to sell or expose for sale, or offer for sale, in any public street or alley or at any place within the limits of the City any stale, rotten, fermented, nauseous or unwholesome vegetables, fruit, berries or any other articles or provisions by them sold, under licenses or otherwise, or any unwholesome bread, cake or other bakery products.
- B. It shall be the duty of the Chief of Police or the health officer, or such other officer as may be designated by the City Manager, to inspect all articles mentioned in this section, as shall be brought to him for inspection, or to which his attention shall have been called by any person. For the purpose of carrying out the provisions of this section, the Chief of Police, health officer or such other officer as may be designated by the City Manager shall have power, and it shall be his duty, to enter in and upon the premises of any person and detain any and all articles mentioned in this section, found in an unfit condition for sale, and, at the same time, to examine and see to the destruction of the same.

§ 25-7. (Reserved)

§ 25-8. (Reserved)

§ 25-9. (Reserved)

§ 25-10. (Reserved)

§ 25-11. (Reserved)

§ 25-12. (Reserved)

§ 25-13. (Reserved)

§ 25-14. (Reserved)

§ 25-15. (Reserved)

§ 25-16. (Reserved)



ARTICLE II  
**Peddler's License**  
**[Adopted 7-1-2002 by Ord. No. 1737]**

**§ 25-17. Peddler, definitions.**

As used in this article, the following terms shall have the meanings indicated:

**GOODS** — Any tangible or intangible item for sale, including but not limited to food items, magazine or newspaper subscriptions, satellite dishes, clothing items, furniture, jewelry, stocks, securities, etc.

**PEDDLER** — Any person, whether or not a resident of the City of Kalamazoo, traveling by foot, wagon, motorized vehicle or other type of conveyance, who engages in the business or activity of selling goods from door to door, place to place, or street to street in the City of Kalamazoo. "Peddler" shall also include a person who solicits services to be performed, or who solicits orders for goods and as a separate transaction makes deliveries to purchasers.

**PERSON** — An individual. If a person applying for a peddler's license is employed by or acting on behalf of a firm, association, company or corporation or other entity, the firm, association, company, corporation or entity and its employees, partners, officers or agents that are engaged in the activity to be licensed or in supervising the same shall be bound by the requirements of this chapter to the same extent as the person receiving the license.

**SELL** — The sale or attempted sale of any goods or services, which includes the taking of orders for goods or services to be delivered later.

**§ 25-18. Prohibited activities of peddlers.**

- A. It shall be unlawful for any peddler or other person to sell any goods in any manner on or in any public building, park, alley, sidewalk, curb or curb lawn in the City of Kalamazoo or on any private property that prohibits solicitation or peddling, or when the peddler or other representative of the firm, association, company or corporation or other entity employing or utilizing the services of the peddler has been banned from any property.
- B. No peddler shall sell any food item unless their wagon, motorized vehicle or other type of conveyance or other instrumentality for storing or carrying the food item is in a clean and sanitary condition. It shall be unlawful for any peddler to sell any food that is not fit for human consumption.
- C. No peddler shall sell their goods or stop or park their wagon, motorized vehicle or other type of conveyance for the purpose of selling their goods in any one place on a street for a period of longer than five minutes, nor in any one block for a period of longer than 15 minutes, nor, having canvassed any one block, return to such block for the purpose of selling his goods on the same day. Provided, however, that no peddler shall obstruct traffic at any time, and peddlers must obey all commands of public safety officers.
- D. No peddler shall sell their goods or stop or park their wagon, motorized vehicle or other type of conveyance for the purpose of selling their goods within 300 feet of any church or place of worship when services are being held, or within 1/2 hour of the beginning or end of such services. No peddler shall sell their goods or stop or park their wagon, motorized vehicle or other type of conveyance for the purpose of selling their goods within 300 feet of any school that is in session, or within 1/2 hour of the beginning or end of a school session.
- E. No peddler shall stop or park their wagon, motorized vehicle or other type of conveyance the purpose of selling their goods within 50 feet of the corner of any street intersection in the City of Kalamazoo, nor at any other place that the City Commission shall designate by motion or resolution.
- F. No peddler shall sell any goods that are stolen or when the peddler otherwise does not have the right to sell the goods. No peddler shall sell any faulty or defective goods, or any goods that have the serial number removed, or goods that are not as advertised or represented thereon.

- § 25-18
- G. No peddler shall conduct business in a manner as to constitute a breach of the peace, or conduct business while intoxicated or under the influence of a controlled substance. § 25-31
- H. Peddlers may only engage in door-to-door peddling during daylight hours, but in any event not before 9:00 a.m. and not after 8:00 p.m.

§ 25-19. (Reserved)

§ 25-20. (Reserved)

§ 25-21. (Reserved)

§ 25-22. (Reserved)

§ 25-23. (Reserved)

§ 25-24. (Reserved)

§ 25-25. (Reserved)

§ 25-26. (Reserved)

§ 25-27. (Reserved)

§ 25-28. (Reserved)

§ 25-29. (Reserved)

§ 25-30. (Reserved)

§ 25-31. (Reserved)



ARTICLE III  
**Transient Merchants**

DIVISION 1

Generally

**§ 25-32. Defined; exemptions from article. [P&L Code § PL1206.2]**

As used in this article, the following terms shall have the meanings indicated:

**TRANSIENT MERCHANT —**

- A. Any person who engages in or conducts a business of selling goods, wares and merchandise and who, for the purpose of carrying on such business, uses, leases or occupies, either in whole or in part, a room, building, structure, vehicle, railroad car, lot or area of any kind in the City for the exhibition and sale of such goods, wares, merchandise and equipment. Such term and the provisions of this article shall not apply to:
- (1) Any such business which has been assessed, as of the 31st day of December next preceding, for personal property taxes upon the stock of goods, wares, merchandise, leasehold improvements and equipment thereof.
  - (2) Any branch established by such exempt business.
  - (3) Businesses licensed under other provisions of this Code.
  - (4) Commercial travelers making sales to dealers, retailers or selling agents in the usual course of business for resale.
  - (5) Persons making sales for charitable, fraternal, religious or public purposes.
  - (6) Any person selling goods, wares or merchandise of any description raised, produced or manufactured by the individual offering the same for sale.
  - (7) Any person renting a stall at the City market or having a concession at the annual county fair.

**§ 25-33. Employment of runners, solicitors or decoys. [P&L Code § PL1206.3]**

No transient merchant shall employ runners, solicitors or decoys to call attention to his wares.

**§ 25-34. To use approved weighing and measuring device; standard weights and measures. [P&L Code § PL1206.3; amended 8-27-1979 by Ord. No. 1169]**

- A. No transient merchant shall use any weighing or measuring device, unless such device has been examined and approved by the state inspector of weights, scales and measures.
- B. No transient merchant shall sell or offer for sale any article or commodity purporting to be in quantities of standard weight or measure, whether in original or other package or not, unless the same shall be actually of the weight or measure purported.

**§ 25-35. Sale of defective merchandise. [P&L Code § PL1206.3]**

No itinerant merchant shall sell, or offer for sale, any defective, faulty, incomplete or deteriorated article of merchandise, unless such merchandise is so represented to prospective customers.

**§ 25-36. Sale of food. [P&L Code §§ PL1206.3, PL1206.4]**

- § 25-36
- § 25-53
- A. If a transient merchant is engaged in the sale, or offering for sale, of fruits, vegetables or other food, the same shall at all times be subject to inspection by the health officer or his duly authorized agent, and no fruits, vegetables or other food shall be sold in any case where the health officer or his duly authorized agent feels that such food would be detrimental to health.
- B. No itinerant merchant shall sell, or offer for sale, any fruits, vegetables or other food which has been injured by frost or which is spoiled, unsound, unripe, unwholesome or otherwise unfit for human consumption or which is otherwise than as represented by the itinerant merchant, either by advertisement or otherwise.
- C. It shall be the duty of the health officer or his duly authorized agent to inspect any fruits, vegetables or other food sold by an itinerant merchant to ascertain whether or not the same is fit for human consumption. If it is determined by the health officer that any such food is not fit for human consumption, it shall be unlawful for the itinerant merchant to offer the same for sale in the City.

§ 25-37. (Reserved)

§ 25-38. (Reserved)

§ 25-39. (Reserved)

§ 25-40. (Reserved)

§ 25-41. (Reserved)

§ 25-42. (Reserved)

DIVISION 2

(Reserved)<sup>130</sup>

§ 25-43. (Reserved)

§ 25-44. (Reserved)

§ 25-45. (Reserved)

§ 25-46. (Reserved)

§ 25-47. (Reserved)

§ 25-48. (Reserved)

§ 25-49. (Reserved)

§ 25-50. (Reserved)

§ 25-51. (Reserved)

§ 25-52. (Reserved)

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130. Editor's Note: Ord. No. 1737, adopted 7-1-2002, amended the Code by repealing former Div. 2, §§ 25-43—25-51, in its entirety. Former Div. 2 pertained to licenses, and derived from P&L Code, §§ PL1206.1 and PL1206.5—PL1206.14; and Ord. No. 1344, adopted 3-11-1985.

§ 25-53  
§ 25-53. (Reserved)

§ 25-62

§ 25-54. (Reserved)

§ 25-55. (Reserved)

§ 25-56. (Reserved)

§ 25-57. (Reserved)

§ 25-58. (Reserved)

§ 25-59. (Reserved)

§ 25-60. (Reserved)

§ 25-61. (Reserved)

§ 25-62. (Reserved)



ARTICLE IV  
**Mobile Food Businesses**  
**[Adopted 1-21-2020 by Ord. No. 2001<sup>131</sup>]**

**§ 25-63. Short title.**

This article may be referred to as the "City of Kalamazoo Mobile Food Business Ordinance."

**§ 25-64. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**MOBILE FOOD BUSINESS** — Any motorized or nonmotorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground that is designed and equipped to serve food and/or beverages.

**MOBILE FOOD BUSINESS VENDOR** — The registered owner of a mobile food business or the owner's agent or employee; and referred to in this article as "vendor."

**§ 25-65. Applicability.**

The provisions of this article apply to mobile food business engaged in the business of cooking, preparing and distributing food or beverages with or without charge on public or private property. This article does not apply to vehicles which dispense food by moving from place to place and are stationary for no more than 15 minutes at a time, such as ice cream trucks or food vending pushcarts.

**§ 25-66. License required.**

- A. It is unlawful for any person, including any religious, charitable or nonprofit organization, to operate within the City a mobile food business without having obtained from the City Clerk a license for that purpose.
- B. A person desiring to operate a mobile food vehicle shall make written application for such license to the City Clerk. The application for a license shall be on forms provided by the City Clerk and shall include the following:
  - (1) Name, signature, phone number, email contact and business address of the applicant.
  - (2) Date of food truck inspection by the City of Kalamazoo Fire Marshal or a reciprocal agency (attach copy of approval certificate).
  - (3) Information on each vehicle, trailer, or other device, to include year, make, model, and vehicle identification number of the vehicle, vehicle or trailer registration plate number, and its dimensions, used by the mobile food business.
  - (4) Information setting forth the proposed plans for power access, water supply and wastewater disposal.
  - (5) Copies of all necessary licenses or permits issued by the Kalamazoo County Health Department.
  - (6) Insurance coverage:
    - (a) Proof of a general comprehensive liability policy with limits of no less than \$1,000,000 combined single limit coverage issued by an insurer licensed to do business in this state and which names the City as an additional insured.
    - (b) Proof of a public liability and property damage motor vehicle policy with limits of no less than \$1,000,000 issued by an insurer licensed to do business in this state.

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**131.Editor's Note: This ordinance superseded former Art. IV, Mobile Food Vehicle Vendors, adopted 8-20-2012 by Ord. No. 1901**  
 20A:219

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- C. An annual fee as set from time to time by the City Commission is required with the application.
- D. A mobile food business license is required annually. Licenses are valid January 1 to December 31 of each year.
- E. A license issued under this article shall not be transferable from person to person.
- F. A license is valid for one business only and shall not be transferred between businesses.

**§ 25-67. Regulations.**

- A. Permitted areas of operation. No operator of a mobile food business shall park, stand or move a vehicle or trailer and conduct business within areas of the City where the vendor has not been authorized to operate. The City Commission shall, by resolution, identify those streets and public areas where parking by a mobile food business is permitted.
- B. Mobile food business vehicle size. A vehicle or trailer shall not exceed 36 feet in length and nine feet in width. Trailers are required to be detached from tow vehicle.
- C. Service window location. Food and beverage service shall be conducted from the side of the truck that faces a curb, lawn or sidewalk when parked. No food service shall be provided on the driving-lane side of the truck. No food shall be actively prepared, sold, or displayed outside of a mobile food business.
- D. Dining area. No mobile food business vendor shall provide or allow any dining area within 10 feet of the mobile food business, including but not limited to tables and chairs, booths, stools, benches or stand-up counters or within the public right-of-way, including but not limited to sidewalks.
- E. Waste management. All mobile food business vendors shall offer a waste container for public use, which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles shall be collected and disposed of off site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets is allowed.
- F. Noise. The operation of all mobile food businesses shall meet the City Noise Ordinance,<sup>132</sup> including generators. No loud music, other high-decibel sounds, horns, or amplified announcements are allowed.
- G. Signage. Signage is allowed on the mobile food business. Additionally, one auxiliary sandwich board sign not more than six square feet in area and up to three feet in height is permitted. The auxiliary sign shall not be placed in vehicle travel lanes and must be located to allow at least five feet of clear pedestrian pathway.
- H. Lighting. No flashing or blinking lights, or strobe lights, are allowed on mobile food business or related signage when the vehicle is parked and engaged in serving customers. All exterior lights with over 60 watts shall contain opaque hood shields to direct the illumination downward.
- I. Unattended business. No mobile food business shall be left unattended and unsecured at any time food is in the vehicle. Any mobile food business found to be unattended shall be considered a public safety hazard and may be ticketed and or towed at the owner's expense.
- J. Distance requirements from special event. A vendor shall not operate a mobile food business within 500 feet of any fair, festival, special event or civic event that is licensed or sanctioned by the City unless the vendor has obtained permission from the event sponsor.
- K. Parking. The issuance of a mobile food business license does not grant or entitle the vendor to the exclusive use of any service route or parking space to the license holder. When parked on public streets, a mobile food business shall be parked in conformance with all applicable parking restrictions and shall not hinder the lawful

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**132. Editor's Note: See Ch. 21, Nuisances, Art. II, Noise.**

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parking or operation of other vehicles.

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- L. Private property. A mobile food business may operate on private property only with owner consent and in compliance with the City Zoning Code.
- M. Awning/signage clearance. When extended, awnings for mobile food vehicles shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.
- N. Utilities. Any power required for the operation of a mobile food business located on a public way shall be self-contained, and a mobile food business shall not use utilities drawn from the public right-of-way. A mobile food business on private property may use electrical power from the property being occupied or an adjacent property, but only when the property owner provides written consent to do so. Otherwise, all power sources must be self-contained. No power cable or other equipment may be extended at or across any City street, alley or sidewalk.
- O. Separation distance from restaurants. Mobile food businesses shall not be parked within 150 feet of an existing brick-and-mortar restaurant during the hours when such restaurant is open to the public for business.

**§ 25-68. Enforcement.**

- A. Violation; fines. Any license holder operating a mobile food business in violation of any provision of this article or any rules and regulations promulgated by the City is responsible for a municipal civil infraction and is subject to a civil fine of \$250 per day. Each day of violation shall constitute a separate and distinct offense.
- B. License is revocable. Once a license has been issued, it may be revoked, suspended or not renewed by the City Clerk for failure to comply with the provisions of this article and any rules or regulations promulgated by the City.

**§ 25-69. through § 25-89. (Reserved)**





ARTICLE V  
**Tag Day Solicitations and Sales**

DIVISION 1

Generally

**§ 25-90. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

TAG DAY — A day on which sales and solicitations referred to in § 25-103 are made.

TAG DAY PERMIT — A permit issued under this article authorizing such sales and solicitations.

**§ 25-91. Permitted hours. [P&L Code § PL728]**

Tag day solicitations and sales shall be conducted between the hours of 8:00 a.m. and 9:00 p.m., unless the City Manager grants express permission to extend the hours.

**§ 25-92. Solicitor's and salesman's identification card. [P&L Code § PL730]**

All tag day solicitors and salesmen shall be furnished an identification card similar to the one attached to the application for a tag day permit, which card shall be dated and signed by the authorized person named in such application. It shall be unlawful for any person to engage in any activity mentioned in § 25-103, unless he has such identification card in his possession. Such identification card shall be shown on demand of any person solicited, or on demand of any police officer of the City.

**§ 25-93. Limitation on number of solicitors or salesmen per block. [P&L Code § PL728]**

No more than six tag day solicitors or salesmen shall be allowed to operate in any one City block or mall block, measured from the center of an intersection to the center of the next intersection on both sides of a single street or mall segment.

**§ 25-94. Equal distribution of solicitations and sales in mall areas. [P&L Code § PL728]**

If tag day solicitations or sales are conducted in mall areas, they shall be distributed equally among areas.

**§ 25-95. Solicitors and salesmen not to obstruct passage of vehicles or persons. [P&L Code § PL728]**

No tag day solicitor or salesman shall obstruct or impede the passage of persons or vehicles on any street or sidewalk or at the entrance of any building.

**§ 25-96. Report of amount collected and disposition of same. [P&L Code § PL732]**

Every person issued a permit under this article shall file a report of the amount collected and the disposition of the same, with the City Clerk, within 15 days of the date of the tag day.

**§ 25-97. through § 25-102. (Reserved)**

DIVISION 2

Permit

**§ 25-103. Required. [P&L Code § PL724]**

No person shall solicit contributions or sell or offer for sale any tags, poppies, buttons, forget-me-nots, flags, ribbons or other like tokens for any charitable, patriotic or other purpose on the streets or in any public place in the City, without obtaining a permit for conducting the solicitation or sale involved.

**§ 25-104. Filing and contents of application. [P&L Code §§ PL725, PL730]**

- A. An application for a permit required by § 25-103 shall be addressed to the City Manager and filed with the City Clerk on or before 60 days prior to the proposed solicitation or sale. For good cause shown, the City Manager may receive applications after such date. The application shall contain the following information, or a statement as to why it cannot be furnished:
- (1) The name, address and headquarters of the applicant.
  - (2) If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers and a statement as to whether the organization is part of an international, national or state agency or organization or is entirely local.
  - (3) The length of time the applicant has been in continuous existence in the City.
  - (4) If the applicant is a new organization, a detailed statement of the type and kind of organization, its objectives and the services it will render in the City.
  - (5) The name and address of the person who will be in direct charge of conducting the solicitation or sale, and of the person by whom the receipts will be disbursed.
  - (6) The purpose for which the solicitation or sale is to be made, the total goal or amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom.
  - (7) An outline of the methods to be used in conducting the solicitation or sale and a description of any device, token or article to be given away or sold, together with a sample thereof and a statement of the cost of each such article.
  - (8) The time when it is desired to make such solicitation or sale, giving preferred dates therefor, and the area within the City to which the solicitation or sale shall be confined.
  - (9) The estimated cost of the solicitation or sale and the amount of any wages, fees, commissions, expenses or gifts to be expended, paid or given to any person in connection with such solicitation or sale and the names and addresses of all such persons.
  - (10) A financial statement for the last preceding fiscal or calendar year, as the case may be, of any funds collected by the applicant, such statement to show the amount of money so raised, the method and cost of raising it and the final distribution thereof.
  - (11) A full statement of the character and extent of the charitable or patriotic work being done by the applicant within the City and elsewhere.
  - (12) A statement to the effect that, if a permit is granted, it will not be used or represented in any way as an endorsement by the City.
  - (13) Such other information as may be reasonably required by the City Manager to determine the kind and character of the proposed solicitation or sale and whether such solicitation or sale is in the interest of, and not contrary to, the public interest and welfare.
- B. Each application filed under this section shall have attached to it a proposed solicitor's and salesman's identification card and the name of one person who will be the only person authorized to sign and issue such

**§ 25-105. Applicant's bond. [P&L Code § PL726]**

With the application for a permit under this division, the applicant shall file with the City Clerk a bond, executed by a corporate surety authorized to do business in the state or by three persons, each of whom shall swear under oath that he is worth an amount not less than the penalty set forth in the bond, over and above all debts and exemptions. Such bond shall be in the amount of \$1,000 and shall be conditioned upon the faithful handling and distribution of the funds raised according to the plans and purposes set forth in the application, and that funds will be solicited in the manner specified in the application and not contrary to state law or ordinances of this City. If such bond is filed with individual sureties, said sureties may be examined by the City Attorney, under oath, concerning the character and extent of their property and whether or not it is subject to execution. Such bond shall be approved by the City Attorney before any permit shall be granted under the terms of this division.

**§ 25-106. Investigation of application. [P&L Code § PL727]**

An application for a permit under this division shall be referred to the City Manager immediately. The City Manager may refer such application to the Parks Director, Mall Advisory Committee, Chief of Police and City Attorney and they shall make an investigation of the truth of the statements set forth in the application and file a written report thereon. If such application is so referred for investigation, such investigation shall be made and the report filed within 20 days thereafter.

**§ 25-107. Issuance generally. [P&L Code § PL729]**

- A. Subject to the other provisions of this division, the City Manager shall authorize the City Clerk to issue a permit applied for under this division, when he shall find the following facts to exist:
- (1) That all of the statements made in the application are true.
  - (2) That the applicant has a good reputation for honesty and integrity, or if the applicant is not an individual, that every officer, manager or agent of the applicant has a good reputation for honesty and integrity.
  - (3) That the control and supervision of the solicitation or sale will be under responsible and reliable persons.
  - (4) That the applicant has not engaged in any fraudulent transaction or enterprise.
  - (5) That the solicitation or sale is promoted solely to finance the charitable, patriotic or other cause described in the application and will not be conducted for private profit.

**§ 25-108. Limitations on issuance. [P&L Code § PL728]**

- A. The total number of permits issued under this division shall not exceed 15 in one year nor five in any one month.
- B. Only one permit or series of permits shall be issued under this division for any one day. Separate organizations may co-sponsor a tag day having a unified theme, such as veterans on poppy day.
- C. Only one permit shall be issued under this division to the same applicant in any one calendar year.

**§ 25-109. Preference in issuance. [P&L Code § PL728]**

Organizations actively based in the City and traditionally conducting tag day solicitations or sales in the City shall be given preferred consideration in the issuance of permits under this division.

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**§ 25-110. Alteration of information given in application. [P&L Code § PL725]**

If, while any application for a permit under this division is pending or during the term of any such permit granted, there is any change in fact, policy or method that would alter the information given in the application, the applicant will notify the City Clerk, in writing, immediately.

**§ 25-111. Effect. [P&L Code § PL732]**

A permit issued under this division shall be a license to the applicant therefor to conduct such sale or solicitation only on the date therein specified.

**§ 25-112. Suspension. [P&L Code § PL731]**

- A. Upon complaint filed with the City Manager by any person or upon his own motion, the manger may suspend a permit granted under this division for good cause shown. "Good cause" shall include:
- (1) Any material misrepresentation in the application for the permit or any fraud in its procurement, or failure to carry out any commitment or representation contained in the application or in this article.
  - (2) Any cause which would have prevented the granting of the permit in the first place.
  - (3) Misconduct of the permittee, such as a violation of any of the requirements of this article, the commission of any unlawful act prohibited by this article or any other law, or any conduct involving dishonesty or lack of good faith, integrity, responsibility or moral turpitude.
- B. After the City Manager has made his findings and suspended a permit, the holder of the permit shall have the right to appeal to the City Commission, within 10 days after receiving notice of such suspension, and such appeal shall be made by writing a letter and filing it with the City Clerk stating that an appeal from the ruling of the City Manager is desired to the City Commission as a whole. If an appeal is not made within 10 days, the permit shall be revoked.

ARTICLE VI  
**Special Events**  
[Adopted 6-11-1984 by Ord. No. 1326]

**§ 25-113. License area; designation.**

When special events are planned for certain areas of the City, the City Commission may, by resolution, designate an area to be called a special events area. Said resolution shall describe the boundaries of the special events area, the purposes for its designation, and the length of time said area shall be a special events area. The City Clerk shall post a copy of said resolution in five public places within the City, at least three of which shall be in the special events license area, but posting or proof thereof is not a necessary element of proof of a violation of this article, nor shall it affect any conviction obtained thereunder.

**§ 25-114. License — Required.**

Any other provision of this Kalamazoo Code notwithstanding, no person or entity shall sell any food, merchandise, goods, service, amusement, ride, or any other thing on any public street, alley, sidewalk, park, or any other public property, when said property is within a special events area as designated by the City Commission, without first having obtained a special events license from the City and complying with the terms and conditions of said license.

**§ 25-115. Same — Application.**

Applications for special events licenses shall be submitted to the City Clerk on such forms as the City Clerk deems appropriate and shall be submitted not less than 15 days before the special event is to be held. The special event application shall be accompanied by a license fee as may from time to time be established by the City Commission. Said application shall also be accompanied by such certificates of insurance, bonds, or other items that the City Commission may from time to time require.

**§ 25-116. Same — Issuance.**

The City Commission may approve the issuance of said special events license, which shall be valid only for the duration of the special event. The City Commission may limit the number of said licenses, limit the purpose of said licenses, regulate and control the location of said licenses, and attach such other terms and conditions to said licenses as may be necessary in the interest of the special event. The City Commission may appoint an advisory committee to make recommendations for special events licenses.

**§ 25-117. Same — Display.**

Any person or entity having been issued a special events license and who is selling any food, merchandise, goods, service, amusement, ride, or any other things pursuant to said license shall prominently display said license in full public view during the time of said special event.

**§ 25-118. Violations.**

Any violation of this article may be enforced by an appearance ticket, a summons and complaint, or arrest.



**Chapter 26**

**POLICE**





**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Employee retirement system — See § 2-223 et seq.

Department of Public Safety — See § 2-291 et seq.

Interfering with police officers generally — See § 22-20.

Loitering around police station or interfering with operation of Department of Public Safety — See § 22-21.

Impersonating policemen — See § 22-23.

**STATUTORY REFERENCES**

Lost property — See MCLA § 434.21 et seq.



§ 26-1

§ 26-19

**ARTICLE I  
(Reserved)<sup>133</sup>**

**§ 26-1. (Reserved)**

**§ 26-2. (Reserved)**

**§ 26-3. (Reserved)**

**§ 26-4. (Reserved)**

**§ 26-5. (Reserved)**

**§ 26-6. (Reserved)**

**§ 26-7. (Reserved)**

**§ 26-8. (Reserved)**

**§ 26-9. (Reserved)**

**§ 26-10. (Reserved)**

**§ 26-11. (Reserved)**

**§ 26-12. (Reserved)**

**§ 26-13. (Reserved)**

**§ 26-14. (Reserved)**

**§ 26-15. (Reserved)**

**§ 26-16. (Reserved)**

**§ 26-17. (Reserved)**

**§ 26-18. (Reserved)**

**§ 26-19. (Reserved)**

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**133. Editor's Note: Article I of Ch. 26, In General, §§ 26-1—26-8, relative to the Police Department, was repealed by 9-7-1982 by 1268. Said sections formerly derived from Adm. Code, §§ A211.1, A211.2, A211.21—A211.26 and A211.29A. The Police Department and Fire Department have been consolidated in the Department of Public Safety; see § 2-291 et seq.**



ARTICLE II  
**Reserve Policemen**  
[Derived from Adm. Code § A211.28]

**§ 26-20. Appointment; terms; compensation.**

- A. The Chief of Public Safety, in his discretion, may appoint qualified persons to act as special police officers. Such officers shall be known as "reserve policemen."
- B. The City Commission shall, from time to time by resolution, approve the terms of reserve policemen. Such policemen shall serve without compensation, except under such circumstances as may be approved by the City Commission for compensable service.

**§ 26-21. Oath.**

All persons appointed under this article as reserve policemen shall take the oath of office set forth in § 26-4,<sup>134</sup> after appointment and before performing any of the duties of their office.

**§ 26-22. Not subject to civil service.**

No reserve policeman shall be subject to civil service requirements and no policeman shall have any rights under the civil service ordinance of the City.

**§ 26-23. Dismissal.**

The Chief of Public Safety may revoke any appointment as a reserve policeman and may dismiss any such appointee from duty at any time, without cause.

**§ 26-24. Rules of Chief.**

The Chief of Public Safety shall promulgate rules relating to the qualifications, appointment and removal of reserve policemen.

**§ 26-25. Appointment of instructors, supervisors and commanding officers.**

The Chief of Public Safety is hereby authorized to appoint instructors, supervisors and commanding officers to train, direct and supervise reserve policemen appointed under this article.

**§ 26-26. Police powers and duties; badge, uniform, insignia and equipment.**

- A. During the time of actual service and under the orders of the Chief of Public Safety, persons appointed as reserve policemen shall have all the powers and duties of police officers, as defined in this chapter. Reserve policemen shall wear such badge, uniform and insignia as the Chief of Public Safety shall direct, and shall be equipped in the manner which he deems necessary for the proper discharge of their duties.
- B. It shall be unlawful for any reserve policeman to exercise his authority or to wear the uniform or insignia, or to display his badge in an attempt to exercise his authority, except during the performance of actually authorized police duty.

**§ 26-27. Duty to attend school.**

All reserve policemen appointed under this article shall be required to report to and attend such schools or

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134. Editor's Note: Section 26-4 was repealed 9-7-1982 by Ord. No. 1268. See now § 2-297, Oath of office.

§ 26-27 instruction relating to their duties as may be prescribed by the Chief of Public Safety, unless expressly excused therefrom by the Chief of Public Safety. § 26-39

**§ 26-28. Impersonation.**

It shall be unlawful for any person not duly appointed and sworn in as a reserve policeman to impersonate such policeman or to wear, carry or display the badge, designated uniform or insignia of such policeman.

**§ 26-29. (Reserved)**

**§ 26-30. (Reserved)**

**§ 26-31. (Reserved)**

**§ 26-32. (Reserved)**

**§ 26-33. (Reserved)**

**§ 26-34. (Reserved)**

**§ 26-35. (Reserved)**

**§ 26-36. (Reserved)**

**§ 26-37. (Reserved)**

**§ 26-38. (Reserved)**

**§ 26-39. (Reserved)**

ARTICLE III

**Disposition of Unclaimed Property**

**[Adopted 11-18-1974 by Ord. No. 1037; amended 12-6-1976 by Ord. No. 1103; 10-17-1988 by Ord. No. 1448]**

**§ 26-40. Generally.**

All unclaimed money or property, other than motor vehicles, which is recovered by the Department of Public Safety shall be processed and handled in accordance with 1987 PA 273, MCLA § 434.21 et seq., as amended.

**§ 26-41. (Reserved)<sup>135</sup>**

**§ 26-42. (Reserved)**

**§ 26-43. (Reserved)**

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**135. Editor's Note: Sections 6-8 of Ord. No. 1448, adopted October 17, 1986, repealed former §§ 26-41—26-43, pertaining to disposition of money, sale of other property and disposition of unsold property, respectively. Said Code sections originated from Ord. No. 1037, adopted 11-18-1974; and Ord. No. 1103, adopted 12-6-1974.**





**Chapter 27**  
**RAILROADS**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Streets — See Ch. 33.

train — See § 36-111.

Street obstructions generally — See § 33-2.

Driving through, around or under railroad crossing gate — See § 36-112.

Traffic Code — See Ch. 36.

Pedestrians passing through, around, over or under gate or barrier at railroad crossing — See § 36-285.

Duty of drivers of vehicles to stop at railroad crossing upon approach of

**STATUTORY REFERENCES**

Railroad companies — See MCLA § 462.201 et seq.

Protection of crossings — See MCLA § 462.391 et seq.

**§ 27-1. Speed limits. [P&L Code § PL901]**

The rate of speed of engines and cars on all railroads within the limits of the City shall not exceed 40 miles per hour. Any engineer, conductor or other person having charge of any railroad engine, car or train of cars, who shall cause the same to go over or upon any railroad within the limits of the City at a greater speed than 40 miles per hour, shall be deemed guilty of a misdemeanor.

**§ 27-2. Crossing signs. [P&L Code §§ PL902, PL903]**

- A. All railroad companies whose tracks are laid within the limits of the City shall place, or cause to be placed, at every street crossing, and at a safe distance from the ground, a suitable sign, lettered on both sides, to indicate a crossing, and to caution the public against any danger, immediate or remote, from any approaching locomotive or train. Such sign shall be located under the direction of the City Engineer, subject to the control of the City Manager.
- B. Whenever any railroad crossing within the corporate limits of the City shall be found without the sign required by this section, it shall be the duty of the City Engineer and the Chief of Police to notify the City Manager, who shall serve or cause to be served, personally upon the superintendent or agent of the railroad company whose tracks go over such crossing, such a written notice, requiring such company to cause such sign to be erected within 20 days from the date of service of such notice. It shall be unlawful for such company to refuse, neglect or fail to comply with the notice.

**§ 27-3. Obstruction of vehicular traffic by train, restrictions; penalties. [Amended 12-20-1999 by Ord. No. 1692]**

- A. A railroad shall not permit a train to obstruct vehicular traffic on any public street or highway in the City for longer than five minutes at any one time, except the obstruction shall not be considered a violation under the following circumstances:
  - (1) If the train is continuously moving in the same direction at not less than 10 miles per hour for not longer than seven minutes.
  - (2) If the railroad can show that the incident occurred as a result of a verifiable accident, mechanical failure, or unsafe condition.
- B. A railroad shall not permit successive train movements, including the movements of a single train, to obstruct vehicular traffic on a public street or highway until all vehicular traffic previously delayed by such train

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movements has been cleared.

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- C. A railroad company shall not permit its employees to allow the activation of active traffic control devices at a railroad grade crossing for more than two minutes if there is no intention to move a train or track equipment through the crossing within 20 seconds to 60 seconds after the activation of the devices.
- D. Each offense under this section shall be a separate violation punishable by a fine of not more than \$500.
- E. Any obstruction of any public street or highway which continues for more than 10 minutes shall constitute one or more additional, separate violations of this section. An obstruction of any public street or highway which lasts between 10 minutes, one second and 15 minutes shall constitute two violations of this section; an obstruction of any public street or highway which lasts between 15 minutes, one second and 20 minutes shall constitute three violations of this section. Any additional obstruction interval of up to five minutes shall be deemed an additional, separate violation as well.
- F. For purposes of this chapter, a train includes any engine or locomotive, or one or more engines or locomotives and any attached railroad cars.

**§ 27-4. Planking or paving of crossings. [P&L Code §§ PL905, PL906]**

- A. All railway companies owning or maintaining tracks in the City shall cause that part of their tracks which crosses any public street or alley in the City to be planked or paved between rails, in such manner and within such specified time as the City Commission shall, by resolution provide. A certified copy of such resolution shall be served upon any duly authorized representative or agent of such railway companies, in the City, by the City Clerk.
- B. If any railroad company shall refuse, neglect or fail to comply with the provisions of any resolution adopted by the City Commission under this section, it shall be deemed guilty of a misdemeanor. If such company shall fail to comply with this section in accordance with such resolution, the City Manager may forthwith cause the improvements and repairs to be made and file with the City Clerk an itemized statement of the expense thereof, and it shall thereupon be the duty of the City Attorney, when notified by the City Clerk thereof, to begin suit against the railway company to recover the amount of such expense.

**§ 27-5. Right-of-way of Fire Department at crossings. [P&L Code § PL910]**

The Fire Department of the City, when answering an alarm of fire, shall at all times be entitled to and are hereby given the right-of-way over all railway crossings, and no engineer, conductor or other person shall stop and hold a train or part of train, of which he is in charge, on any street crossing within the corporate limits of the City, so as to prevent, obstruct, delay or hinder the Fire Department, or any part thereof, in answering an alarm of fire, but instantly, on receipt of warning, he shall clear the crossing for the immediate passage of the Fire Department.

**§ 27-6. Trains crossing fire hose; interfering with Fire Department. [P&L Code § PL911]**

No engineer, conductor or other person shall run or cause to be run any railroad engine, car, train or part of a train over any line of hose laid by the Fire Department over the right-of-way of a railroad company, while the same is in use by the Fire Department, or in any way delay, hinder or obstruct the Fire Department at any street crossing or at any point on the railroad right-of-way within the corporate limits of the City, while in the performance of its duty as fixed by the ordinances, rules and regulations of the City.

**§ 27-7. Drainage of right-of-way. [P&L Code § PL907]**

- A. Whenever the City Commission shall order any railroad company to make, keep open or repair any ditch, drain, sewer or culvert along, under or across its railroad track, as may be necessary to drain its grounds and right-of-way property, or so that the natural drainage of adjacent property shall not be impeded, it shall, by resolution, specify the manner in which such ditch, drain, sewer or culvert shall be made, kept open or

§ 27-7 repaired, and shall specify the time, after service of a copy of the resolution on the railroad company, within which such work shall be done. Service of such resolution shall be made upon the railroad company by delivering a copy thereof, certified by the City Clerk, to the superintendent, general manager or agent of such company in the City, which service may be made by any employee of the City. § 27-7

B. If any railroad company shall refuse, neglect or fail to make, open or repair any ditch, drain, sewer or culvert, in the manner and within the time specified in a resolution served on it under this section, it shall be the duty of the City Engineer to forthwith make, open or repair such ditch, drain, sewer or culvert, upon the completion of which the City Engineer shall file, in the office of the City Clerk, a certified copy of such resolution, showing the service of the same upon the railroad company, together with a report showing the execution of the order contained in the resolution and an itemized account of the expense incurred in executing the same. It shall thereupon be the duty of the City Attorney to forthwith commence suit against such railroad company to recover the amount of such expense.



**WASTEWATER DISCHARGE REGULATIONS AND ENFORCEMENT PROCEDURES**





§ 27-7

**[HISTORY: Adopted by the City Commissioners of the City of Kalamazoo 6-30-1997 by Ord. No. 1639. <sup>§ 27-7</sup><sub>136</sub>**  
**Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Buildings and building regulations — See Ch. 9.**

**Plumbing Code — See § 9-78.**

**Connection of swimming pool drain line to City sewer system — See § 34-7.**

**Water — See Ch. 38.**

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**136. Editor's Note: This ordinance repealed former Ch. 28, which pertained to similar subject matter.**



ARTICLE I  
General Provisions

**§ 28-1. Purpose.**

A. The purpose of this chapter is to:

- (1) Provide comprehensive collection, treatment and disposal of all wastewaters discharged to the City water reclamation plant.
- (2) Prevent:
  - (a) Damage to the wastewater system from misuse;
  - (b) Injury to employees;
  - (c) Surcharging of all or part of the wastewater system;
  - (d) Interference with the process of wastewater treatment or disposal; and,
  - (e) Pass-through of pollutants through the wastewater system.
- (3) Ensure compliance with all applicable local, state and federal statutes and regulations;
- (4) Promote waste minimization in the areas served by the wastewater system; and,
- (5) Establish administrative procedures to ensure adherence and enforcement of Chapter 28 of the Kalamazoo City Code of Ordinances.

**§ 28-2. Applicability.**

This chapter applies to all users of the wastewater system.

**§ 28-3. Definitions. [Amended 9-20-2004 by Ord. No. 1776; 1-20-2015 by Ord. No. 1931]**

The following definitions apply to the terms used in this chapter:

AUTHORIZED REPRESENTATIVE —

- A. If the user is a corporation, "authorized representative" means:
  - (1) The president, secretary, treasurer or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policymaking or decisionmaking functions for the corporation;
  - (2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations, and can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements, and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- B. If the user is a partnership or sole proprietorship, "authorized representative" shall mean a general partner or proprietor, respectively;
- C. If the user is a federal, state or local governmental facility, "authorized representative" shall mean a director

§ 28-3 or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee; § 28-3

D. The individuals described in Subsections A through C above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City prior to or together with the report being submitted.

**BEST MANAGEMENT PRACTICE or BMP** — Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 28-11 and 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**BIOCHEMICAL OXYGEN DEMAND or BOD** — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° C., expressed in terms of weight and concentration as milligrams per liter (mg/l).

**BYPASS** — The diversion of wastewater from any portion of the user's treatment facility.

**CAPITAL CHARGES** — Those amounts paid by each user connected to the treatment system to pay the debt service requirements and capital expenditures to enlarge or improve the wastewater system.

**CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD** — Any regulation containing pollution discharge limits promulgated by the USEPA in accordance with Sections 307(b) and (c) of the FWPCA, 33 U.S.C. § 1317, which apply to a specific category of nondomestic users and which appear in 40 CFR Chapter I, Subchapter N, parts 405 through 471, or Michigan's Act 451 of 1995, or subsequent amendments thereto.

**CBOD; CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND** — The measured fraction of the biochemical oxygen demand that excludes the oxygen uptake from reduced forms of nitrogen by the use of a chemical inhibitor. If the inhibiting chemical is not used, the oxygen demand measured is the sum of the carbonaceous and nitrogenous demands. Results are reported as carbonaceous biochemical oxygen demand (CBOD) when inhibiting the nitrogenous oxygen demand. When nitrification is not inhibited, results are reported as BOD.

**CENTRALIZED WASTE TREATER** — A user that treats wastes generated by activities located at a site other than where the treatment occurs and then discharges the wastes into the wastewater system.

**CFR** — Code of Federal Regulations.

**CHAPTER** — Chapter 28 of the Kalamazoo City Code of Ordinances.

**CHEMICAL OXYGEN DEMAND or COD** — The total demand or quantity of oxygen required by the wastewater as specified in the current edition of "Standard Methods for the Examination of Water and Wastewater" expressed in milligrams per liter.

**CITY** — The City of Kalamazoo or its duly authorized representative.

**COMMENCEMENT OF CONSTRUCTION** — Either:

- A. The beginning, as part of a continuous on-site construction program, of:
  - (1) The placement, assembly, or installation of facilities or equipment; or
  - (2) Significant site preparation work, such as clearing, excavation, or the removal of existing buildings, structures, or facilities when their removal is necessary for the placement, assembly or installation of new source facilities or equipment; or
- B. The entrance into a binding contractual obligation for the purchase of facilities or equipment that the purchaser intends to use as a new source within a reasonable time. Entrance into the following contracts does

§ 28-3 not constitute a commencement of construction: options to purchase contracts that may be terminated without substantial loss, or contracts for feasibility, engineering, or design studies. § 28-3

**COMPATIBLE POLLUTANT** — Pollutants which can be effectively removed by the wastewater system to within acceptable levels for the wastewater system residuals and receiving stream. Specifically excluded are heavy metals, PCBs, and any pollutants that will likely contribute to or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters.

**COMPLIANCE SCHEDULE** — A schedule of remedial measures that includes an enforceable sequence of events for the commencement or completion of actions leading to compliance with a pretreatment standard or requirement.

**COMPOSITE SAMPLE** — The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, over a specified period which provides a representative sample of the average stream during the sampling period. For categorical process samples, this is required to be a minimum of four samples per 24 hours. [See 40 CFR 403.12(b).]

**CONVENTIONAL POLLUTANTS** — BOD, TSS, pH, fecal coliform, and oil and grease. (See 40 CFR 401.16.)

**DEWATERING** — The temporary discharge of groundwater associated with a construction project requiring the need to maintain below-grade excavation free from surface or subsurface infiltration of water. Conditional approval from the Director of Public Services must be obtained prior to discharge.

**DIRECT DISCHARGE** — The discharge of treated or untreated waters directly or indirectly via storm sewer to the waters of the state or navigable waters of the United States.

**DIRECTOR** — The Director or Acting Director of the Department of Public Services of the City or his/her designee or authorized representative.

**DISCHARGE** — To release a pollutant from or through:

- A. Pipes;
- B. Conduits;
- C. Pumping stations;
- D. Ditches;
- E. Tank trucks;
- F. The ground through defective pipes, pipe joints, or walls;
- G. Roof leaders;
- H. Cellar, yard, or area drains;
- I. Foundation drains;
- J. Drains from springs and wetlands;
- K. Manhole covers;
- L. Crossover pipes from storm sewers and combined sewers;
- M. Catch basins;
- N. Storm sewers;
- O. Surface runoffs;
- P. Street wash waters; or

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Q. Other drainage.

**DOMESTIC WASTE** — Human waste and other wastes related to personal or residential sanitation, including hauled septage waste.

**DOMESTIC WASTEWATER** — Wastewater that contains only domestic waste.

**EXEMPTION** — Exemption from categorical pretreatment standards imposed under federal, state or local law.

**FLOW PROPORTIONED COMPOSITE SAMPLE** — A sampling method which combines discrete aliquots of a sample collected over time, based on the flow of the waste stream being sampled. The aliquots collected shall be at constant time intervals with the volume of each aliquot varying based upon the stream flow. Flow proportional samples can also be a combination of constant volume samples collected at time intervals which vary based on the stream flow.

**FWPCA** — The Federal Water Pollution Control Act, as amended [also known as the Clean Water Act (CWA)], 33 U.S.C. § 1251 et seq.

**GARBAGE** — Solid waste from the domestic or commercial preparation, cooking, dispensing, storage, handling or sale of food.

**GPD** — Gallons per day.

**GRAB SAMPLE** — A sample which is taken on a one-time basis with no regard to the flow of the waste stream and over a period of time not to exceed 15 minutes.

**HAULED WASTE** — Waste that is discharged to the wastewater system from a tank truck or other conveyance by vehicle.

**INDIRECT DISCHARGE** — The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the FWPCA (33 U.S.C. § 1317) into the wastewater system (including holding tank waste discharged into the system).

**INDIVIDUAL CONTROL DOCUMENT (ICD)** — A written mechanism issued by the City to significant industrial users (SIUs) and permitted industrial users (PIUs) to ensure and enforce compliance with applicable pretreatment standards and requirements in accordance with provisions of this chapter.

**INDUSTRIAL USER** — A source of industrial waste. Single- and multiple-family residential dwellings with discharges consistent with domestic waste characteristics are specifically excluded.

**INDUSTRIAL WASTE** — Any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business trade or research, including the development, recovery or processing of natural resources.

**INFILTRATION** — Water other than wastewater that enters the wastewater system (including building drains and building sewers) from the ground through such means as defective pipes, defective pipe joints, defective connections or defective manholes. Infiltration does not include, and is distinguished from, inflow.

**INFLOW** — Water other than wastewater that enters the wastewater system (including building drains and building sewers) from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

**INTERFERENCE** — A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- A. Inhibits or disrupts the wastewater system, its treatment processes or operations, or its sludge processes, use or disposal; and
- B. Therefore is a cause of a violation of any requirement of the wastewater system's NPDES permit (including an

§ 28-3 increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations, as amended, or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act. § 28-3

MDEQ — Michigan Department of Environment Quality.

MICROGRAMS PER LITER — µg/l.

MILLIGRAMS PER LITER — mg/l.

NEW SOURCE —

A. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the FWPCA which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
- (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (4) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection A(2) or (3) of this definition but otherwise alters, replaces or adds to existing process or production equipment.
- (5) Construction of a new source, as defined hereunder, has commenced if the owner or operator has:
  - (a) Begun, or caused to begin as part of a continuous on-site construction program:
    - [1] Any placement, assembly or installation of facilities or equipment; or
    - [2] Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
  - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

NONCATEGORICAL — A process or facility with processes which is/are not regulated by any of the National Categorical Pretreatment Standards listed in 40 CFR Chapter I, Subchapter N.

NONCONTACT COOLING WATER — Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, finished product, or other chemical additives.

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**NONDOMESTIC WASTE** — Any waste generated from an industrial or commercial process or other means that is not a domestic waste.

**NONDOMESTIC WASTEWATER** — Wastewater that contains nondomestic waste, including contaminated groundwater and leachate.

**NPDES or NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM** — The program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, territorial seas and contiguous zones of the United States pursuant to Section 402 of the FWPCA.

**PASS-THROUGH** — A discharge which exits the wastewater system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the wastewater system's NPDES permit (including an increase in the magnitude or duration of a violation).

**PERMITTED INDUSTRIAL USER (PIU)** — An industrial user that does not meet the definition of a "significant industrial user" but is required to have a permit.

**PERSON** — Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or its legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

**pH** — A measure of the acidity or alkalinity of a solution, expressed in standard units and/or the logarithm (base 10) or the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

**POLLUTANT** — Any of the following:

- A. Substances regulated by categorical standards;
- B. Substances discharged to the wastewater system that are required to be monitored, are limited in the wastewater system's permit, or are to be identified in the wastewater system's permit application.
- C. Substances for which control measures on nondomestic users are necessary to avoid restricting the wastewater system's approved residuals management program.
- D. Substances for which control measures on nondomestic users are necessary to avoid operational problems at the wastewater system.
- E. Substances for which control measures on nondomestic sources are necessary to avoid worker health and safety problems in the wastewater system.

**PRETREATMENT** — The reduction of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the wastewater system. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d) or subsequent amendments. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the wastewater system.

**PRETREATMENT REQUIREMENT** — Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

**PRETREATMENT STANDARD** — Any federal or state pollutant discharge limits promulgated in accordance with the Clean Water Act or Michigan's Act 451 of 1995 or subsequent amendments thereto. This term includes the general and specific prohibitions and local limits specified in (or pursuant to) this chapter, the Wastewater Use Rules and Regulations or a user's permit or ICD.

**PROCESS WASTEWATER** — Any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product



RELEASE — To spill, leak, dump, pump, dispose, deposit, inject, place and abandon.

SHALL vs. MAY — Shall means mandatory; may is permissive.

SIGNIFICANT INDUSTRIAL USER (SIU) — Any of the following:

- A. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.
- B. Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the wastewater system (excluding sanitary noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the wastewater system treatment plant; or is designated as such by the City on the basis that the industrial user has a reasonable potential for adversely affecting the wastewater system's operation or for violating any pretreatment standard or requirement [in accordance with 40 CFR 403.8(f)(6)].
  - (1) Upon a finding that an industrial user meeting the criteria in Subsection B of this definition has no reasonable potential for adversely affecting the wastewater system's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition from an industrial user or wastewater system, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

SIGNIFICANT NONCOMPLIANCE — A user is in significant noncompliance (SNC) if its violation meets one or more of the following criteria:

- A. Chronic violations of local, state or federal wastewater discharge limits whereby 66% or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);
- B. Technical review criteria (TRC) violations whereby 33% or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1), multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation(s) of a pretreatment standard or requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard that the Director determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of wastewater system personnel or the general public);
- D. Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the Director's exercise of his or her authority under Chapter 28 [40 CFR 403.8(f)(1)(vi)(B)] of the Kalamazoo Code of Ordinances to halt or prevent such a discharge;
- E. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in an individual control document or compliance order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports on sampling required to be performed during the period, and reports on compliance with compliance schedules or orders [per Michigan Administrative Rules Part 23 R323.2302(dd)(vi)];
- G. Failure to accurately report noncompliance; or
- H. Any other violation or group of violations, which may include a violation of best management practices, which the Director determines will adversely affect the operation or implementation of Chapter 28 of the

**SLUG LOAD or SLUG DISCHARGE** — Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 28-11. A slug discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the wastewater systems regulations, local limits or permit conditions.

**STATE** — The State of Michigan or its duly authorized representative.

**SUSPENDED SOLIDS** — The total suspended matter that floats on the surface of, or is suspended in, wastewater and that is removable by laboratory filtering.

**TIME PROPORTIONAL COMPOSITE SAMPLE** — A sampling method which combines discrete sample aliquots of constant volume collected at constant time intervals.

**UPSET** — An incident for which a user may have a defense to an enforcement action pursuant to 40 CFR 403.16.

**USEPA** — The United States Environmental Protection Agency.

**USER** — Any person who discharges or causes or permits the discharge of domestic or nondomestic waste into the wastewater system and/or the owner or occupant of any property from which said discharge is made.

**WASTEWATER** — The liquid- and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the wastewater system.

**WASTEWATER SYSTEM** —

- A. The facilities of the City for collection, transportation, storage, pumping, treatment, and final disposition of domestic and nondomestic wastewater;
- B. The wastewater collection facilities of any municipality served by the City; and
- C. Any temporary connection authorized by the Director.

**WASTEWATER USE RULES AND REGULATIONS (formerly known as "sewer use regulations")** — Any local discharge limitations or prohibited discharges promulgated by the Director and approved by the Kalamazoo City Commission to account for specific operational considerations and concerns of the wastewater system.

#### **§ 28-4. State and federal requirements.**

- A. Federal Categorical Pretreatment Standards. The national categorical pretreatment standards found at 40 CFR Chapter I, Subpart N, Parts 405--471, are hereby incorporated. Federal Categorical Pretreatment Standards, if more stringent than limitations imposed under this chapter or in the Wastewater Use Rules and Regulations for sources in that subcategory shall supersede the limitations imposed under this chapter.
- B. State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter or in the Wastewater Use Rules and Regulations.
- C. City's right of revision.
  - (1) The City reserves the right to establish more stringent limitations or requirements on discharges to the wastewater system if deemed necessary to comply with the objectives of this chapter.
  - (2) Except insofar as the City may be permitted by law to seek and obtain an exemption, and such exemption is granted, the City shall implement and enforce federal and state laws and regulations pertaining to its wastewater system that supplement or supersede this chapter. The City may implement and enforce these regulations after notice of their promulgation has been published in the federal register or as

§ 28-4 otherwise required by law. The City may implement and enforce these regulations without providing additional notice to users and prior to amending this chapter. § 28-6

**§ 28-5. Management of system.**

- A. The wastewater system shall be and remain under the management, supervision and control of the City Commission, which may employ or designate such person or persons in such capacity or capacities as it deems advisable to carry out the efficient management and operation of the system. The Director, subject to the approval of the City Commission, may make such rules, orders or regulations as he/she deems advisable and necessary to assure the efficient management and operation of the system and to provide equitable charges for the services thereof.
- B. The City Manager shall cause to be maintained and kept proper books of records and account in which shall be made full and correct entries of all transactions relating to the wastewater system. Not later than three months after the close of the fiscal year, the City Manager shall cause to be prepared a statement, in reasonable detail, showing the cash income and disbursements of the system at the beginning and close of the operating year and such other information as may be necessary to enable any taxpayer of the City or user of the service furnished to be fully informed as to all matters pertaining to the financial operation of the system during such year.
- C. A budget, showing in detail the estimated costs of administration, operation and maintenance of the wastewater system for the next ensuing fiscal year, including billing, accounting, postage and related costs, and including an amount equal to the bond principal and interest due to be paid in said year, shall be prepared by the City Manager at the same time as he/she is required by the Charter to prepare the annual City budget, which budget shall be subject to the approval of the City Commission. The amounts transferred into the operation and maintenance fund during each year shall not exceed the amount set forth in such budget unless approved by vote of the City Commission.

**§ 28-6. through § 28-9. (Reserved)**



ARTICLE II  
**Discharge Regulations**

**§ 28-10. General provisions. [Amended 9-20-2004 by Ord. No. 1776]**

A. Use of wastewater system:

- (1) It shall be the duty of the owner of any inhabited building, or of any building discharging pollutants into water, situated on land abutting or fronting on any street or alley in which a sanitary sewer has been laid, or in which a sanitary sewer shall hereafter be built, to connect such building at his/her own expense, with the sewer adjacent thereto, within 30 days after notice.
- (2) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City any human or animal excrement or pollutant as defined herein. This paragraph shall not apply to the making or use of compost or fertilizer by said person on his or her own property if done in compliance with any and all laws, ordinances and regulations as part of a lawful business or domestic agricultural activity which poses no substantial threat to public health, safety or welfare and is not a common-law nuisance.
- (3) (Reserved)
- (4) Except for facilities approved by the Kalamazoo County Human Services Department in accordance with the county public health code sewage disposal regulations, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of domestic or nondomestic wastewater within the City.
- (5) Except insofar as the City may be permitted by law to seek and obtain an exemption, and such exemption is granted, all users which discharge or release or cause the discharge or release of nondomestic waste shall pretreat any pollutant which may cause interference, pass-through, violate local, state or federal requirements or otherwise adversely affect the wastewater system. Pretreatment of such pollutants shall be in accordance with Section 307 of the FWPCA, 40 CFR 403, the ICD's and as determined by the Director. Users shall come into compliance with applicable pretreatment requirements within 90 days of commencement of discharge or release. Any time extensions for compliance are subject to the written approval of the Director.

B. Interference. A user may not make any discharge into the wastewater system which causes interference.

C. Pass-through. A user may not make any discharge into the wastewater system which causes pass-through.

D. Bypass. Bypass is prohibited, and the City may take enforcement action against a user for a bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage (see 40 CFR 403.17 (a)(2) for the definition of "severe property damage");
- (2) There was no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance;
- (3) The user submitted adequate notice to the Director at least 10 days before the date of the bypass if the user knew in advance of the need for a bypass or the user submits notice as required by § 28-31D;
- (4) The Director may approve an anticipated bypass, after considering any of its adverse effects, if the Director determines that the bypass will meet the conditions listed in Subsection D(1), (2) and (3) of this section.

**§ 28-11. Specific prohibitions. [Amended 1-20-2015 by Ord. No. 1931]**

A. Users may not discharge the following substances to the wastewater system:

- (1) Pollutants that create a fire or explosion hazard in the wastewater system, including but not limited to pollutants that result in wastewater with a closed cup flash point of less than 140° F. or 60° C., using the test methods specified in 40 CFR 261.21;
- (2) Wastewater having a corrosive property capable of causing damage to the structures, equipment or personnel of the City, including but not limited to wastewater with a pH less than or greater than the limits set forth in § 28-13;
- (3) Solid or viscous substances that may obstruct the flow in the wastewater system or otherwise cause interference with the operation of the wastewater system;
- (4) Wastewater with a temperature that inhibits biological activity in the wastewater system, including but not limited to any wastewater that causes the influent to the treatment plant to exceed 40° C. (104° F.) or any wastewater or vapor having a temperature higher than 65° C. (149° F.) at the point of entrance to the wastewater system;
- (5) Petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, antifreeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, degreasing solvents, oil-based paint, and/or paint thinners in amounts that cause interference or pass-through, including but not limited to amounts in excess of the limit set forth in Wastewater Use Rules and Regulations (see § 28-12);
- (6) Pollutants that result in the presence of gases, vapors or fumes within the wastewater system that:
  - (a) Cause an odor nuisance; or
  - (b) Create workplace conditions that may cause acute worker health or safety problems;
- (7) Any pollutant, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration that may cause interference with the wastewater system;
- (8) Hauled waste, except for hauled waste that consists of domestic wastewater or nondomestic wastewater as approved by the Director that is discharged at a point designated by the Director;
- (9) Any wastewater that contains radioactive wastes, except when:
  - (a) The user is authorized to use radioactive material by the U.S. Nuclear Regulatory Commission or other governmental agency with authority to regulate the use of radioactive materials; and
  - (b) The wastewater is discharged in compliance with the regulations of the U.S. Nuclear Regulatory Commission and any other applicable local, state or federal regulations;
- (10) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, noncontact cooling water, or other unpolluted water except as approved by the Director;
- (11) PCBs are prohibited and include but are not limited to Aroclors 1016, 1221, 1232, 1242, 1248, 1254 and 1260;
- (12) Any nondomestic wastewater before the City has approved a notice of intent submitted according to § 28-31B;
- (13) Any mass, concentration, or volume of a substance in excess of the amount allowed in the user's individual control document;
- (14) Discoloring pollutants which impart a color to the wastewater in the wastewater system, which color

§ 28-11 cannot be removed by the system's treatment process or which is prohibited by the City's NPDES permit; § 28-14

- (15) Slug discharges, unless determined through chemical analysis or other characterization to be treatable and as approved by the Director;
- (16) Fats, oils, or greases of animal or vegetable origin in concentrations that cause interference or pass-through; and
- (17) Mercury. Discharges of mercury shall be below detection as described. Monitoring for mercury shall be in accordance with the following test methods: The discharge of mercury at or above the quantification level shall represent an exceedance of the local limit when using EPA Method 245.1 or 245.2. Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with EPA Method 245.1 or 245.2, unless the more sensitive EPA method is required by the Director. The quantification level shall be 0.2 ug/L for Method 245.1 or 245.2, unless higher levels are appropriate due to sample matrix interference. Two or more detections above the quantification level will require the user to develop and implement a mercury minimization plan.

**§ 28-12. Wastewater Use Rules and Regulations.**

- A. Pursuant to City Commission approval, the Director is authorized to establish, implement and enforce Wastewater Use Rules and Regulations (formerly known as "Sewer Use Regulations").
- B. Rules and regulations adopted under this section may include, but are not limited to, local pollutant limits, submission of plans by users for the pretreatment of wastewater, equipment installation to monitor the nature and quantity of the wastewater being discharged into the wastewater system or record keeping requirements.

**§ 28-13. pH regulation.**

- A. A user may not discharge any wastewater having a pH lower than 6.2 or higher than 9.8 standard units (SU), measured at the point of entry to the wastewater system, or having any other corrosive property capable of causing damage to any equipment or portion of the wastewater system or injury to the system's personnel.
- B. Where a user continuously measures the pH of a wastewater discharge through use of electronic sensing and recording instrumentation, or such measurement is performed by the Director, the user shall maintain the pH of such discharge within the range set forth in this regulation, except that excursions from the range are permitted subject to the following conditions:
  - (1) The total time of excursions from the range shall not exceed 1% of any calendar month or 1% of the monitoring period if less than one month.
  - (2) No individual excursion from the range shall exceed 60 minutes.
  - (3) A user with a total wastewater discharge that is equal to or less than 1% of the average daily dry weather flow received by the City water reclamation plant may at the discretion of the Director, be allowed an exemption from the pH limits of 6.2 to 9.8 SU provided that the user is in compliance with the requirements established in § 28-13C. A user granted such exemption shall be issued an individual control document specifying the special conditions under which the exemption may exist.
- C. Any wastewater discharge with a pH value less than 5.0 SU shall be considered a prohibited slug discharge regardless of duration or volume.

**§ 28-14. Excessive discharge.**

- A. No discharge shall exceed the peak flow rate as indicated in the individual control document.
- B. No wastewater shall be discharged at a rate which upsets or interferes with the treatment process or causes a

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hydraulic surge in the wastewater system.

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**§ 28-15. Dilution prohibition.**

Unless authorized to do so by an applicable pretreatment standard or requirement, a user may not increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with any applicable pretreatment standard or requirement. The Director may impose mass limits on a user that is using dilution to meet the applicable pretreatment standards or requirements or in any other case where mass limits are appropriate.

**§ 28-16. New source compliance.**

Before beginning to discharge, new sources shall install, have in operating condition, and start-up all pollution control equipment needed to comply with the applicable pretreatment standards and requirements. Within the shortest feasible time not to exceed 90 days new sources shall meet all applicable pretreatment standards and requirements.

**§ 28-17. Categorical pretreatment standards.**

- A. Existing sources shall comply with any applicable categorical pretreatment standard within three years from the date that the standard is effective unless a shorter compliance date is specified in the standard.
- B. Existing sources that become users after promulgation of an applicable categorical pretreatment standard shall comply with the categorical pretreatment standards for existing sources on the commencement of discharge to the wastewater system.
- C. Limits in a categorical pretreatment standard apply to the effluent from the process regulated by the standard regardless of the site of effluent discharge.
- D. The calculation of equivalent mass and concentration limits using the combined waste stream formula will be done in accordance with 40 CFR 403.6 (c), (d), and (e).
- E. The Director may adjust categorical pretreatment standards to reflect the presence of pollutants in the user's intake water in accordance with 40 CFR 403.15.

**§ 28-18. Local pollutant limits.<sup>137</sup> [Added 1-20-2015 by Ord. No. 1931; 2-20-2017 by Ord. No. 1946]**

Under the City of Kalamazoo’s National Pollutant Discharge Elimination System permit, discharges to the Kalamazoo water reclamation plant are controlled by the following limitations:

<b>Pollutant</b>	<b>Daily Maximum Concentration Limit (ug/L)</b>
Cadmium, T	40
Chromium, T	4,670
Copper, T	2,230
Lead, T	110
Nickel, T	1,590
Zinc, T	5,300
Cyanide, T	250

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137. Editor's Note: The limits herein replace Sewer Use Regulation No. 91-1, 4-29-1001. Former § 28-18, pertaining to storm sewer discharges, was repealed 9-20-2004 by Ord. No. 1776.



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<b>Pollutant</b>	<b>Daily Maximum Concentration Limit (ug/L)</b>
SGT-HEM (total petroleum hydrocarbon)	100 (mg/L)
PH	62 to 9.8 S.U.
BETX	15 (mg/L)

**§ 28-19. Connections to the wastewater system.**

- A. It shall be unlawful to connect to the wastewater system without securing written permission from the Director. Written permission shall be contingent upon a user providing connection plans that conform with the wastewater system. A certificate of approval of such connection plans by the MDEQ shall also be furnished where, by law, such plans are required to be approved.
- B. Permission to connect to the wastewater system shall not be granted until all assessments due and all advance deposits established have been paid and until the Director has determined that there is capacity available for the additional discharge in all downstream sewers, lift stations, force mains and the City water reclamation plant including capacity for compatible waste.
- C. The Director may require from any proposed user or from any existing user who is altering the composition of the wastewater, a compatibility study to demonstrate to the satisfaction of the Director that the wastewater to be discharged is compatible with the existing wastewater system, will not affect any requirements imposed upon the City, will not adversely affect the wastewater system, and is consistent with the user's individual control document.

**§ 28-20. through § 28-29. (Reserved)**



ARTICLE III  
**Administration**  
**[Amended 1-20-2015 by Ord. No. 1931]**

**§ 28-30. Individual control documents.**

- A. Applicability. All significant and permitted industrial users shall be administratively regulated by an individual control document (ICD).
- B. ICD elements. Individual control documents shall include the following elements:
- (1) A statement of duration not to exceed five years; existing permittees shall apply for permit reissuance a minimum of 90 days prior to the expiration of their existing permit. Upon timely application for reissuance of a permit in accordance with this subsection, the expired permit shall be automatically extended until a final decision regarding the application is made;
  - (2) An ICD shall be issued to a specific SIU or PIU for specific processes and operations at a specific location;
  - (3) An ICD is not transferable to another user, process, operation, or location without prior approval from the Director; a copy of the ICD shall be issued to the new owner or operator by the Director;
  - (4) Except insofar as the City may be permitted by law to seek and obtain an exemption and such exemption is granted, an ICD shall include effluent limitations based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, this chapter, Wastewater Use Rules and Regulations, and state and local law; if exemption has been granted, the ICD shall include the terms of same;
  - (5) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including best management practices, identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on applicable pretreatment standards in 40 CFR 403, categorical pretreatment standards, this chapter, Wastewater Use Rules and Regulations, and state and local law;
  - (6) A statement of applicable civil and criminal penalties for violation of pretreatment requirements and standards, and any applicable compliance schedule;
  - (7) Slug discharge requirements, including a one-time slug evaluation by the City; and
  - (8) Any other applicable requirements.
- C. ICD modification. Change, modification, revocation, or reissuance of an ICD shall be at the sole discretion of the Director. Before taking possession or control of the processes or operations to which an ICD applies, the user taking possession or control shall apply to the Director for the issuance of an ICD; application shall be made a minimum of 90 days before the user takes possession or control.

**§ 28-31. Reporting requirements.**

- A. Baseline monitoring reports. Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the wastewater system, shall be required to submit to the City a report which contains the information listed below. At least 90 days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City a report which contains the information listed below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of

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pollutants discharged.

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- (1) Identifying information. The name and address of the facility, including the name of the operator and owners.
- (2) Environmental permits. A list of any environmental control permits held by or for the facility.
- (3) Description of operations. A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the wastewater system from the regulated processes.
- (4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the wastewater system from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- (5) Measurement of pollutants.
  - (a) Identify the categorical pretreatment standards applicable to each regulated process.
  - (b) Submit the results of sampling, analysis and reporting identifying the nature and concentration (and/or mass, where required by the standard or by the City) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported. Sampling and analyses shall be performed in accordance with 40 CFR 403.12(b)(5). In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by Director or the applicable standards to determine compliance with the standard.
- (6) Certification. A statement, as set forth in 40 CFR 403.6(a)(2)(ii), reviewed by the user's authorized representative and certified by a qualified professional indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements. The certification statement is required for ninety-day compliance reports, baseline reports and all other periodic compliance reports for categorical users and industrial users [See 40 CFR 403.12(l)].
- (7) Compliance schedule. If additional pretreatment or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide the additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards. The following conditions shall apply to this schedule.
  - (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (for example, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction and beginning and conducting routine operations).
  - (b) No increment referred to in Subsection A(7)(a) above shall exceed nine months.
  - (c) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director, including, as a minimum, whether or not it complied with the increment of progress to be met on that date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between the progress reports to the Director.

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(d) In no event shall more than nine months elapse between such progress reports to the Director.

(8) Within 60 days after modification of a categorical pretreatment standard by a removal allowance, the combined wastestream formula, a fundamentally different factors variance, or after more than one of these modifications, the user shall submit any necessary amendments to the information requested by the certification provision at § 28-31A(6) and the schedule at § 28-31A(7).

B. Compliance date report. Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the wastewater system, any user subject to such pretreatment standards and requirements shall submit to the Director a report containing the information described in § 28-31A of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by Director or the applicable standards to determine compliance with the standard. This report must be signed and certified in accordance with § 28-31A(6).

C. Periodic compliance reports.

(1) All SIUs and PIUs shall, at a frequency determined by the Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the effluent which are limited by the pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. Periodic compliance reports of all permitted industrial users shall be signed and certified in accordance with § 28-31A(6) of this chapter. In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by Director or the applicable standards to determine compliance status of the user (40 CFR 403.12).

(2) All wastewater samples shall be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(3) If an industrial user subject to the reporting requirement in and of this section monitors any pollutant more frequently than required by the wastewater system, using the procedures prescribed in § 28-31A(5) of this chapter, the results of this monitoring shall be included in the report. The sampling and analysis required in Subsection C(1), (2) and (3) of this section may be performed by the City in lieu of the industrial user. Where the City of Kalamazoo's staff/contractor performs the sampling and analysis in lieu of the industrial user, the City of Kalamazoo's staff/contractor shall perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Where the wastewater system performs the required sampling and analysis in lieu of the industrial user, the user will not be required to submit the report.

D. Notice of violation/repeat sampling and reporting.

(1) If sampling performed by an industrial user indicates a violation, the user shall notify the Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 days after becoming aware of the violation. Where the City of Kalamazoo's staff/contractor performs the sampling and analysis in lieu of the industrial user, the City of Kalamazoo's staff/contractor shall perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis.

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The industrial user is not required to resample if the wastewater system performs monitoring at the industrial user at least once a month or if the wastewater system performs sampling between the industrial user's initial sampling and when the industrial user receives the results of his/her sampling.

- (2) A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Director within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

E. Report of changed conditions. Each user is required to notify the Director of any planned changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least 60 days before the change.

- (1) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.
- (2) The Director may issue or modify an existing wastewater discharge permit or ICD.
- (3) No user shall implement the planned changed conditions, until and unless the Director has responded to the industrial user's notice.
- (4) For purposes of this requirement, flow increases of 20% or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

F. Reports of potential problems.

- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, noncustomary batch discharge, or a slug load which may cause potential problems for the wastewater system, it is the responsibility of the industrial user to immediately orally notify the Director of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
- (2) Within five days following such discharge, the industrial user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the wastewater system, natural resources or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties or other liability which may be imposed by this chapter or other applicable law.
- (3) Failure to notify the City of potential problem discharges shall be deemed a separate violation of this chapter.
- (4) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

G. Users must provide any and all other reports required by 40 CFR 403.12, including BMP documentation where applicable.

H. Prior to installation and implementation of any plant and equipment that may affect the pretreatment, volume

§ 28-31 or discharge of wastewater or pollutants, the user shall submit designs of any proposed changes for review and approval to the Director. Additional approvals as required by local, state or federal regulations are the responsibility of the user. No construction shall commence until the user has obtained all appropriate approvals in writing. § 28-31

- I. Upon request of the Director, a user must provide the following information:
  - (1) Discharge peak rate and volume over a specified time period;
  - (2) Analyses of wastewaters pursuant to 40 CFR Part 136 or other validated procedures approved by the Director;
  - (3) Information on raw materials, processes, and products affecting wastewater volume and quality;
  - (4) All relevant information on pollutants, including type and quality;
  - (5) A blueprint documenting the user's property showing sewer and pretreatment facility location;
  - (6) Information on pretreatment facilities;
  - (7) Spill control and prevention information;
  - (8) Submission of all notices and self-monitoring reports from users as are necessary to assess and assure compliance with pretreatment standards and requirements, including compliance schedules; and
  - (9) Such other information as may be required by the Director.
- J. Hazardous waste report. A user shall report discharge of waste that if otherwise disposed would meet the definition of a hazardous waste in accordance with 40 CFR 403.12(p). These reports shall be on forms supplied by the Director.
- K. A user must notify the Director immediately of all discharges that could cause problems for the wastewater system, including slug loadings.
- L. Recordkeeping requirements:
  - (1) For each sample taken to satisfy the requirements of this chapter, users shall record the following information:
    - (a) The exact place, date, and time of the sampling;
    - (b) The type of sample;
    - (c) The names of the person taking the sample, the person doing the analysis, and the laboratory where the analysis was done;
    - (d) The dates the analyses were performed;
    - (e) The analytical techniques and methods used; and
    - (f) The results of all required analyses.
  - (2) Users shall retain and preserve for no less than three years all records relating to monitoring, sampling, chemical analyses and BMP documentation made by or on behalf of the user. If a record pertains to matters that are the subject of an order, litigation, or other enforcement action, then the user shall retain and preserve the record until all enforcement activities have concluded and all periods of limitations for appeals have expired. Users shall make these records available upon request to the Director for inspection and copying.

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M. Public information. All written information submitted to the Director shall be available without restriction to any person upon request according to the Michigan Freedom of Information Act, unless:

- (1) The user provides, at the time the user submits the information, a written notice to the Director that the user claims that all or part of the information is exempt from disclosure according to the Michigan Freedom of Information Act;
- (2) The user demonstrates to the Director's satisfaction that the information is a trade secret; and
- (3) When granted confidentiality, the portion of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, or the NPDES sludge or pretreatment programs; provided, however, that the information shall be treated as confidential by the governmental agency, until such time the information has been determined to be nonconfidential by the governmental agency.

### § 28-32. Monitoring, inspections, and surveillance.

#### A. Inspections:

- (1) Users of the wastewater system are subject to facility inspections and record review at the request of the Director during all reasonable business hours, and in an emergency at any time. Said inspections may include, but are not limited to, monitoring of these users' operations.
- (2) The premises of any user may be inspected at all reasonable hours for the purpose of determining whether any violation of this chapter exists and in an emergency at any time.
- (3) When required by the Director, a user of any property serviced by a building sewer carrying nondomestic wastes shall install a suitable structure(s) together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Director. The structure shall be installed by the user at his/her expense and shall be maintained by him/her so as to be safe and accessible at all times. Following approval and installation, such structures may not be removed without the consent of the Director.
- (4) If a user refuses to grant the Director entry upon request, the Director may seek an administrative warrant for an inspection from any court authorized to issue search warrants under Michigan law.
- (5) In an emergency which creates an immediate and substantial danger to the health, safety, and welfare of individuals or property, the premises of a user may be inspected at any time and without permission or a warrant.

B. Monitoring and sampling. Reports required by this chapter shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report. This data shall be representative of conditions occurring during the reporting period. The monitoring frequency as established by the Director shall be sufficient to show compliance with all applicable standards and requirements.

- (1) Users shall collect grab samples for pH, cyanide, total phenols, total petroleum hydrocarbons, oil and greases, sulfide, and volatile organic compounds to assess compliance, unless otherwise indicated by the Director. For all other pollutants, users shall collect flow proportioned composite samples collected over 24 hours or the duration of the discharge if the duration of the discharge is less than 24 hours, unless otherwise indicated by the Director. Where time proportional composite sampling or grab sampling is authorized by the Director, the samples must be representative of the discharge, and the decision to allow the alternative sampling must be documented in the industrial user file for that facility (facilities) using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA



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guidance. Multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics, total petroleum hydrocarbon, and oil and grease, the samples may be composited in the laboratory.

- (2) For baseline monitoring reports and ninety-day compliance reports, users shall take a minimum of four grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data does not exist; for facilities for which historical sampling data are available, the Director may approve a lower minimum. The Director shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.
- (3) The Director may require continuous monitoring for pH or other parameters. All sampling and analysis shall be performed in accordance with 40 CFR Part 136, standard methods or other methods if approved by the Director. The use of "other methods" also requires EPA approval.

C. Monitoring locations shall not be changed without the approval of the Director.

**§ 28-33. through § 28-39. (Reserved)**



ARTICLE IV  
**Hauled Waste**

**§ 28-40. Hauled waste.**

- A. Hauled waste may be discharged only at the dump station located at the City water reclamation plant unless authorized in writing by the Director. Hauled waste may be discharged only if all of the conditions of either Subsection A(1) or (2) which are detailed below are met:
- (1) The hauled waste is domestic waste and:
    - (a) Consists only of septage waste;
    - (b) Is delivered by a unit licensed for septage waste hauling under Michigan law. A copy of the current septage waste hauling license must be provided to the Director prior to disposal.
  - (2) The hauled waste is a nondomestic waste and:
    - (a) Consists only of a nonhazardous waste;
    - (b) Is delivered by a unit licensed for hauling liquid industrial waste, under Michigan law. A copy of the license must be provided to the Director prior to disposal;
    - (c) The generator provides, in writing, a description of the origin of the waste, the identification of all pollutants, and certification that the waste is not hazardous by either listing or characteristic as defined by the Resource Conservation and Recovery Act (RCRA);
    - (d) Prior to discharge of hauled waste, the generator shall provide sample analyses which demonstrates that the waste is not a RCRA characteristic hazardous waste and meets all local discharge limits and applicable categorical pretreatment standards.
    - (e) Has been approved by the Director prior to hauling to the City water reclamation plant.
    - (f) Delivery times have been arranged with City water reclamation plant personnel prior to disposal.
  - (3) In addition to Subsection A(1) or (2) above, the waste must meet any other applicable conditions imposed by the Director.
  - (4) Upon delivering waste to the City water reclamation plant, a hauler must accurately complete and sign a form provided at the dump station. The form details the source of the waste and presents a certification statement that the waste is nonhazardous and the hauler understands the consequences for noncompliance.

**§ 28-41. through § 28-49. (Reserved)**



ARTICLE V  
**Enforcement and Penalties**

**§ 28-50. Applicability.**

- A. The City shall undertake the enforcement actions necessary to promote the purposes set forth in Article III, § 28-40. The City has the primary responsibility for enforcing all applicable pretreatment standards and requirements. However, users may also be subject to citizen suits under 33 U.S.C. 1365 or enforcement actions by the State of Michigan (or department thereof) or the U.S. Environmental Protection Agency.
- B. The City may take any enforcement action at any time as appropriate to the circumstances of the case. The City is not required to take enforcement actions in the order in which they are presented in this section.

**§ 28-51. Enforcement response plan.**

- A. The Director shall develop and implement an enforcement response plan. This plan shall contain procedures for investigating and eliminating noncompliance with pretreatment standards or requirements. At a minimum, the plan shall discuss:
  - (1) How the Director will investigate instances of noncompliance;
  - (2) The various types of enforcement responses used by the City, the violations for which the responses will be used, and the timing of these responses; and
  - (3) The persons responsible for each response.
- B. The enforcement response plan provides only explanatory material and is merely informational in nature. The enforcement response plan does not create legal rights or obligations and does not limit the enforcement discretion of the City.

**§ 28-52. Enforcement actions and penalties.**

- A. Civil remedies and penalties. A user shall be liable to the City for a civil infraction and for all costs incurred by the City if:
  - (1) The user has violated any provision of Chapter 28, the Wastewater Use Rules and Regulations, local limits, a wastewater discharge permit, an ICD or an order issued hereunder or any other pretreatment standard or requirement; or
  - (2) The user's discharge, alone or in conjunction with other discharge(s), has caused the City to violate any requirement of its NPDES permit or increased the magnitude or duration of a violation; or
  - (3) An enforcement action against the City by the State of Michigan (or department thereof), the U.S. Environmental Protection Agency, or other person results in penalty or other liability being imposed upon the City as a result of any action by the user.
- B. Enforcement actions and penalties. The following enforcement actions or penalties are applicable to a user who violates Subsection A(1), (2) or (3) above:
  - (1) The user is subject to judicial or other equitable injunctive relief for noncompliance;
  - (2) The user is deemed to have committed a civil infraction subject to a civil fine of \$1,000 per violation, as required by federal regulations, or such other maximum fine provided by law in an amount not to exceed \$1,000. Procedures governing the issuance and service of civil infraction citations shall be governed by applicable state laws and by Kalamazoo City Code of Ordinances.
  - (3) The user is subject to relief for noncompliance through administrative actions up to and including

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termination of services; services of SIUs or PIUs that do not comply with their Individual Control Documents may be terminated;

- (4) The user is subject to immediate termination of wastewater system service in case of emergency to health, safety, welfare, or the environment, as determined by the Director. The City may seek any other remedies allowed by law for any violations of this chapter; an action for civil penalties/remedies is not a bar to or a prerequisite to taking any other action against a user.

C. Criminal prosecution.

- (1) A user who knew or should have known that the user's action or inaction violates any provision of Chapter 28, the Wastewater Use Rules and Regulations, local limits, a wastewater discharge permit, ICD, or an order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine up to \$500, or imprisonment for not more than 90 days or both.
- (2) A user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this chapter, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of up to \$500, or imprisonment for not more than 90 days, or both.
- (3) A user who introduces any substance into the wastewater system which the user knew or should have known would cause personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of up to \$500 and be subject to imprisonment for not more than 90 days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

D. Violations. The following provisions apply to any violation of this chapter:

- (1) A separate violation occurs for each pollutant that exceeds an applicable pretreatment standard or requirement;
- (2) Each day on which a violation occurs is a separate violation;
- (3) If a user is in noncompliance with any pretreatment standard that is a monthly average, thirty-day average, or four-day average, then the user has one violation on each day of the averaging period;
- (4) If, for any period, a user has violated both a maximum and an average pretreatment standard for a particular pollutant, then the total number of violations is the sum of the days on which the maximum standard was violated and the days in the averaging period;
- (5) A separate violation occurs on:
  - (a) Each day that a report is late; and
  - (b) Each day after an action required to be completed is not completed.
- (6) Making a statement or certification in any application, record, report, plan, or other document or making a monitoring device or method inaccurate may result in penalties under the legal remedies available to the City.
- (7) If a user's discharge results in a deposit, obstruction, damage, or an impairment of the wastewater system, then the user shall be liable to the City for the costs of cleaning, repairing, or replacing the affected components as well as other associated fines or costs.
- (8) In addition to any fine recovered for a civil infraction, misdemeanor violation, or administrative penalty,

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the City may also recover the costs and fees associated with enforcement activities, including, but not limited to, the City's costs for sampling analysis, additional monitoring, investigating, pumping or treating of discharge, lost revenues or grants, damage or loss to the wastewater system or public resources, fines and penalties incurred by the City, time devoted to the action by any City employee or contractual staff and legal fees and costs incurred by the City. The user shall be notified of all charges assessed pursuant to this provision.

- (9) The City shall give public notice, at least once per year in the largest daily newspaper published in the area, of all users who have been in significant noncompliance at any time during the previous 12 months.
- (10) An SIU or PIU may be found to be in violation of its ICD, which may result in termination of service, for the following reasons:
  - (a) Failure to accurately report wastewater constituents or other characteristics of the discharge;
  - (b) Failure to report changes in wastewater pollutants or other characteristics;
  - (c) Failure to submit timely reports;
  - (d) Failure to allow the Director or his/her representatives reasonable access to the user's premises for inspection or monitoring;
  - (e) Discharging any pollutant prohibited by this chapter;
  - (f) Discharging a pollutant in excess of the amount allowed in the ICD or in excess of the amount allowed by this chapter;
  - (g) Failure to pay the costs imposed upon the user by the Director; or
  - (h) Any other violation of the ICD, this chapter, an order of the Director, a judicial order, or any other applicable local, state, or federal law.

E. Public nuisance. Every violation of this chapter shall be deemed a public nuisance.

F. Notice of noncompliance.

- (1) If the Director has determined that a user has violated or is violating this chapter, the Wastewater Use Rules and Regulations, the user's ICD, local limits, an order, any pretreatment standard or requirement, or any other applicable local, state, or federal law, then the Director may issue to the user a notice of noncompliance.
- (2) A notice of noncompliance shall identify the violation and the consequences of further violation.
- (3) As appropriate to the circumstances, the notice of noncompliance may:
  - (a) Require description of the nature and cause of the violation;
  - (b) Require a description of the remedy;
  - (c) Require the submission of certain information before a certain date;
  - (d) Provide notice that the City will be increasing its surveillance of the user; or
  - (e) Contain other provisions that promote a return to compliance.

G. Letter of violation.

- (1) If the Director has determined that a user has violated or is violating this chapter, the Wastewater Use Rules and Regulations, the user's ICD, local limits, an order, any pretreatment standard or requirement,

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or any other applicable local, state, or federal law or has failed to respond to a notice of compliance, then the Director may issue to the user a letter of violation.

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- (2) Any letter of violation issued by the Director shall:
  - (a) Be written;
  - (b) Be either hand delivered or delivered by certified mail, return receipt requested;
  - (c) State the nature of the violation;
  - (d) Describe the administrative procedures that are available to review the Director's determination.
- (3) A letter of violation may require the user to:
  - (a) Attend a meeting with the Director;
  - (b) Submit a proposed compliance schedule; or
  - (c) Take other actions to identify the nature of the violation, the cause of the violation, or a remedy for the violation.

#### H. Compliance order.

- (1) A compliance order may be issued at the discretion of the Director, and specifically details the method and means a user must follow to correct violations of this chapter, the Wastewater Use Rules and Regulations, local limits, ICD, an order, pretreatment standard or requirement, or any other applicable local, state or federal law, in order to come into compliance. The order may contain a compliance schedule detailing time frames within which the user must come into compliance. The order shall be written, describe the administrative procedures that are available to review the Director's determination and be hand delivered or delivered by certified mail, return receipt requested.
- (2) If the user fails to adhere to the compliance order and/or fails to achieve compliance, the Director shall take further appropriate action.
- (3) If a user acts in full accordance with a compliance schedule, other than SNC publication, no further enforcement actions need be issued for parameter violations addressed by the schedule.

I. Notice of administrative penalty. When noncompliance warrants the exacting of a monetary penalty or cost recovery, the Director may issue a notice of administrative penalty which may include a compliance order.

J. Show cause order. A show cause order may be issued by the Director. The show cause order shall direct the user to explain its noncompliance and show cause why more severe enforcement actions, up to and including termination of services, should not be carried out.

K. Cessation of discharges. After a user has received notice that the Director has revoked the user's ICD, the user shall immediately cease all discharges as required by the Director to the wastewater system, and the Director shall take all steps necessary to assure that no further such discharges occur.

L. Effect of director approval of plans, specifications, or operating procedures. Director approval of plans, specifications, or operating procedures does not entitle a user to relief from enforcement actions if the user does not achieve compliance with the applicable pretreatment standards or requirements.

#### § 28-53. Administrative review (due process).

A. The administrative review process is available under the following instances:

- (1) Any user aggrieved by a decision of the Director pursuant to this chapter may request an administrative



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hearing.

- (2) Whenever the Director has reason to believe that any user has committed or is committing a violation of this chapter, local limits, the Wastewater Use Rules and Regulations, ICD, an order, or any pretreatment standard or requirement, or any other applicable local, state or federal law, or the user has not responded to or corrected previous violations, the Director may issue a written notice to the user to appear for an administrative hearing to show cause why wastewater system service should not be terminated.
  - (3) In nonemergency situations, enforcement actions involving termination services will be stayed pending an administrative hearing.
  - (4) In emergency situations where wastewater system service is terminated, the user is entitled to an administrative hearing. Termination of service is not stayed pending an administrative hearing. If a user fails to comply with a termination of service, the City shall take such steps as it deems necessary, including severance of the sewer connection, to prevent or minimize damage to the wastewater system, the receiving stream, or endangerment to individuals.
  - (5) A request for an administrative hearing is deemed to include an appeal of permit or ICD conditions. Decisions made after an administrative hearing, not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.
  - (6) Where the Director initiates an administrative hearing, a written notice or show cause order shall be served upon the user by personal service or by certified mail, return receipt requested to the user's last known address.
- B. The administrative hearing shall be conducted by an impartial hearing officer appointed by the City Manager. The hearing officer will listen to any oral evidence and review any written documents requested. Admissibility of evidence at the administrative hearing shall be within the discretion of the hearing officer. The user shall be entitled to be represented at the administrative hearing in person or by an attorney at his/her own expense and shall be entitled to examine witnesses for the Director and present evidence on his/her own behalf. A record shall be made of the proceedings, but such record need not be verbatim. The hearing officer shall render a written decision within 14 days after the administrative hearing detailing his decision.
- C. During the pendency, in any forum of any challenge to a director decision, a user affected by the decision shall comply with the decision.

#### § 28-54. Affirmative defense.

- A. If the Director brings an action against a user alleging a violation of Chapter 28, § 28-10B, 28-10C or 28-11A(3) through (7), then the user may assert as an affirmative defense that:

The user did not know or have reason to know that its discharge, alone or in combination with discharges from other sources, would cause pass through or interference; and

Either:

- (a) A Wastewater Use Rule or Regulation designed to prevent pass through or interference was developed and the user was in compliance with the Wastewater Use Rule or Regulation immediately before and during the pass through or interference, or
- (b) A Wastewater Use Rule or Regulation was not generated or applicable and immediately before and during the pass through or interference the user's discharge did not substantially change in volume or pollutants from the user's previous discharges when the City was in compliance with its NPDES permit and all applicable requirements for sludge use or disposal.

**§ 28-55. Upset defense.**

- A. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. A user shall have an affirmative defense to an action brought for noncompliance with a categorical pretreatment standard if:
  - (1) The user demonstrates, through properly signed, contemporaneous operating logs or other evidence:
    - (a) The cause of the noncompliance;
    - (b) That the noncompliance was unintentional and temporary;
    - (c) That the facility was being operated in a prudent manner in compliance with all applicable operation and maintenance procedures; and
    - (d) That the noncompliance was caused by factors beyond the reasonable control of the user and not caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation; and
    - (e) The user reports the noncompliance according to § 28-31.

**§ 28-56. Appeals.**

If a user is aggrieved by a decision of the hearing officer, the user shall have the right to appeal that decision by way of an action for superintending control in the Kalamazoo County Circuit Court. Such an appeal shall be filed within 21 days of the decision at issue, and shall be governed by applicable Michigan Court Rules.

**§ 28-57. through § 28-69. (Reserved)**

ARTICLE VI  
Service Charges<sup>138</sup>

**§ 28-70. System to be operated on rate basis.**

From and after April 1, 1980, the wastewater system shall be operated and maintained, on the rate basis as authorized by law and provided for in this chapter.

**§ 28-71. Connection charges.**

- A. The City Manager is hereby authorized, with the consent of the City Commission, to determine and establish a schedule of construction charges for the various sizes and types of sanitary sewer connections for each calendar year. Each schedule shall become effective when approved by motion duly adopted by the City Commission. Such schedule of charges shall be based on the following, as applicable:
- (1) Recovery of all costs normally incurred for this type of construction.
  - (2) The size and length of pipe to be used for connection.
  - (3) Extra costs of construction during winter months.
  - (4) Repair or replacement of pavement and sidewalk.
  - (5) Exceptional surface repairs, including landscaping.
- B. The Director may establish advance deposits for sanitary sewer connection construction charges for each calendar year.
- (1) Advance deposits toward sanitary sewer connection construction charges established under this section shall be made before construction. Any balance owed shall be due within 30 days after billing. Interest at the rate of 1% per month shall be charged upon any delinquent unpaid balance. If such unpaid balance, with interest, is not paid within six months, that fact shall be reported to the City Commission for the establishment for a lien against the real estate.

**§ 28-72. To be charged for all connections; basis, meters. [Amended 3-9-1998 by Ord. No. 1649]**

- A. The rates to be charged for wastewater service furnished by the wastewater system shall be charged to all buildings or premises having any connection with the system. Such rates shall be based upon the water consumption of the user's premises, including water from public and private supplies, or at the election of the user, the amount of wastewater discharged into the wastewater system, except that the service charge shall be based upon the size of the water meter.
- B. The owner of any building or premises receiving water from any source other than the City water department shall register the same with the Director and shall arrange to have suitable metering facilities installed at his own expense to measure such private supply. The meters shall be provided, maintained, and read by the water department, for which the customer shall be charged the applicable water service charge in addition to the established charges for wastewater services. In any interim period allowed by the Director prior to such installation, the Director may establish such charges as he deems equitable, considering the anticipated wastewater discharge.
- C. Any user of the wastewater system may elect to rearrange his water supply pipes and metering, for the purpose of eliminating from the total water consumption applicable to wastewater charges the water not running to the sanitary sewers, or he may elect to establish metering facilities registering the discharge from his premises to

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138. Editor's Note: Ord. No. 1649, adopted 3-9-1998, amended Art. VI, Service Charges, by changing §§ 28-72 through 28-80 back to the language in effect prior to the adoption of Ord. No. 1639 on 6-30-1997.

§ 28-72 the sanitary sewers. All such arrangements shall be made subject to the approval of the Director, and the expense thereof, including installation, maintenance, and operation, shall be borne by the user. § 28-73

D. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any industrial user whereby an industrial waste of unusual strength or character may be accepted by the City for treatment. Any user who enters into a special agreement or arrangement with the City shall be subject to all user and industrial costs or fees established in the special agreement. No special agreement shall be entered into which is in conflict with Section 307 of Public Law 92-500 or with any other local, state, or federal law or regulation.

**§ 28-73. Rate schedules established. [Amended 3-9-1998 by Ord. No. 1649; 9-13-1999 by Ord. No. 1681; 6-18-2001 by Ord. No. 1723; 4-19-2004 by Ord. No. 1769; 7-2-2007 by Ord. No. 1831; 2-4-2008 by Ord. No. 1836; 1-19-2010 by Ord. No. 1864; 2-21-2011 by Ord. No. 1880; 2-6-2012 by Ord. No. 1890; 5-5-2014 by Ord. No. 1921; 1-20-2015 by Ord. No. 1931; 2-20-2017 by Ord. No. 1946; 1-16-2018 by Ord. No. 1956; 2-4-2019 by Ord. No. 1980; 2-17-2020 by Ord. No. 2003; 2-15-2021 by Ord. No. 2024; 2-21-2022 by Ord. No. 2044; 9-19-2022 by Ord. No. 2054]**

A. Each user of the treatment works shall pay charges as set out in Subsections A(1), (2), (3) and (4) below. Municipal wholesale customers and industrial customers whose wastewater contributions are monitored shall be charged fixed monthly charges specific to their allocated revenue responsibility as set forth in Subsection A(1). All other users shall pay charges equal to the sum of those set out in Subsections A(2) and (3) below, according to the service charge (meter reading, billing expense, and allocated infiltration/inflow costs) in Subsection A(1) and the commodity charge (quantity of wastewater at average domestic strength and septic haulers at higher strengths as indicated) in Subsection A(2).

(1) Fixed monthly charges.

(a) The following service charges shall apply to all users who are served on a wholesale basis or as a monitored industrial user. These amounts represent allocated revenue responsibility based on their specific wastewater contributions.

	<b>OM&amp;R (\$/month)</b>	<b>Capital (\$/month)</b>	<b>Total (\$/month)</b>
<b>Municipal Wholesale Customers</b>			
Portage	285,400	110,100	395,500
Galesburg	7,100	3,100	10,200
Vicksburg	18,100	7,100	25,200
Gull Lake	59,400	22,700	82,100
Augusta	4,300	1,700	6,000
Mattawan	24,100	9,300	33,400
South County	7,100	2,700	9,800
<b>Contract Industrial Customers</b>			
Pfizer	383,600	90,200	473,800
Graphic Packaging	161,400	8,900	170,300
<b>Other Monitored Industrial Customers</b>			
Allnex USA	44,800	2,600	47,400

	<b>OM&amp;R (\$/month)</b>	<b>Capital (\$/month)</b>	<b>Total (\$/month)</b>
Arvco	1,900	100	2,000
Continental Linen	8,600	500	9,100
Domestic Linen Supply	2,300	100	2,400
Kal Metal Finishers	1,300	100	1,400
Kalsec	66,100	14,400	80,500
Kalamazoo Brewing	42,800	9,800	52,600
Green Bay Pkg	6,500	1,200	7,700
Clean Earth Env	3,000	1,000	4,000
Waste Mngt	2,800	600	3,400
Zoetis	25,200	3,000	28,200
MPI Research	10,900	1,200	12,100

- (b) Commercial or industrial users whose wastewater strengths are monitored and tested by City technical services staff shall be allocated revenue responsibility based on their monitored wastewater contributions (quantity, BOD, SS and NH3) relative the system in total. Any commercial or industrial user, or septage hauler, who is not monitored by City technical services staff, and who believes that their wastewater strengths are below average domestic wastewater strengths (BOD - 239 mg/l, SS-259 mg/l, NH3 - 18.3 mg/l) may document their wastewater strengths to the satisfaction of the Director (or pay the cost of sampling and testing by City technical services staff) and shall be charged a fixed monthly amount that reflects the allocated revenue responsibility based on their specific contributions.
- (2) Service charges. The following service charges shall apply to all users connected or required to be connected regardless of quantity of wastewater discharged. The service charge is a user charge, and it contains billing and inflow and infiltration charges for retail customers.

Service Charges (minimum charges per billing period):

<b>Inside City Quarterly</b>			
<b>Size of meter (inches)</b>	<b>OM&amp;R (\$/bill)</b>	<b>Capital (\$/bill)</b>	<b>Total (\$/bill)</b>
5/8	15.30	0.55	15.85
3/4	15.80	0.60	16.40
1	17.32	0.78	18.10
1 1/2	19.34	1.00	20.34
2	24.91	1.60	26.51
3	65.89	6.05	71.94
4	81.07	7.69	88.76
6	116.48	11.56	128.04
Flat rate	82.96	10.38	93.34

<b>Outside City Quarterly</b>			
<b>Size of meter (inches)</b>	<b>OM&amp;R (\$/bill)</b>	<b>Capital (\$/bill)</b>	<b>Total (\$/bill)</b>
5/8	15.30	4.88	20.18
3/4	15.80	5.38	21.18
1	17.32	6.85	24.17
1 1/2	19.34	8.80	28.14
2	24.91	14.17	39.08
3	65.89	53.75	119.64
4	81.07	68.41	149.48
6	116.48	102.63	219.11
Flat rate	82.96	46.20	129.16

<b>Inside City Monthly</b>			
<b>Size of meter (inches)</b>	<b>OM&amp;R (\$/bill)</b>	<b>Capital (\$/bill)</b>	<b>Total (\$/bill)</b>
5/8	11.93	0.18	12.11
3/4	12.10	0.20	12.30
1	12.60	0.25	12.85
1-1/2	13.27	0.34	13.61
2	15.13	0.53	15.66
3	28.79	2.01	30.80
4	33.85	2.57	36.42
6	45.65	3.85	49.50
Dewatering	9.42	0.00	9.42

<b>Outside City Monthly</b>			
<b>Size of meter (inches)</b>	<b>OM&amp;R (\$/bill)</b>	<b>Capital (\$/bill)</b>	<b>Total (\$/bill)</b>
5/8	11.93	1.62	13.55
3/4	12.10	1.78	13.88
1	12.60	2.28	14.88
1-1/2	13.27	2.93	16.20
2	15.13	4.72	19.85
3	28.79	17.91	46.70
4	33.84	22.81	56.65
6	45.65	34.21	79.86

<b>Outside City Monthly</b>			
<b>Size of meter (inches)</b>	<b>OM&amp;R (\$/bill)</b>	<b>Capital (\$/bill)</b>	<b>Total (\$/bill)</b>
Dewatering	9.42	0.00	9.42
Septage haulers	9.42	0.00	9.42

(3) Commodity charges.

<b>Inside City Retail</b>			
	<b>OM&amp;R (\$/m3)</b>	<b>Capital (\$/m3)</b>	<b>Total (\$/m3)</b>
Residential (*)	0.784	0.124	0.908
Commercial	0.784	0.124	0.908
Industrial	0.784	0.124	0.908
Dewatering	0.784	0.124	0.908

<b>Outside City Retail</b>			
	<b>OM&amp;R (\$/m3)</b>	<b>Capital (\$/m3)</b>	<b>Total (\$/m3)</b>
Residential (*)	0.784	0.495	1.279
Commercial	0.784	0.495	1.279
Industrial	0.784	0.495	1.279
Dewatering	0.784	0.495	1.279

<b>Outside City Municipal Wholesale</b>			
	<b>OM&amp;R (\$/m3)</b>	<b>Capital (\$/m3)</b>	<b>Total (\$/m3)</b>
Portage SW Int.	0.690	0.304	0.994
Charleston Twp.	0.630	0.244	1.874

M3 = Cubic Meters

(\*) Summer water consumption used in calculation of wastewater bills shall not exceed 120% of winter quarter consumption for quarterly users whose winter quarter water consumption is less than 200 cubic meters and monthly users whose winter quarter water does not exceed 66 cubic meters per month.

(4) Quality/quantity charges.

(a) To the extent that the City determines it more feasible to apply individual unit rates to any monitored industrial user, it may levy quantity/quality rates in this Subsection A(4) in lieu of the fixed monthly charge presented in Subsection A(1) above.

(b) Septage haulers whose wastewater strengths are below average domestic wastewater strengths the amounts noted may document their wastewater strengths to the satisfaction of the Director (or pay the cost of sampling and testing by City technical services staff) and shall be allowed to pay

quantity/quality rates in this Subsection A(4).

<b>Commodity Charge</b>			
	<b>OM&amp;R (\$/m3)</b>	<b>Capital (\$/m3)</b>	<b>Total (\$/m3)</b>
<b>Monitored Customers</b>			
Pfizer	0.390	(0.023)	0.367
Graphic Packaging	0.390	(0.222)	0.168
Industrial/Dewatering:			
Inside City	0.390	0.041	0.431
Outside City	0.390	0.377	0.767

<b>COD Strength Charge</b>			
	<b>OM&amp;R (\$/Kg)</b>	<b>Capital (\$/Kg)</b>	<b>Total (\$/Kg)</b>
<b>Monitored Customers</b>			
Pfizer	0.305	0.033	0.338
Graphic Packaging	0.035	0.009	0.314
Industrial/Dewatering:			
Inside City	0.305	0.009	0.314
Outside City	0.305	0.039	0.344

<b>SS Strength Charge</b>			
	<b>OM&amp;R (\$/Kg)</b>	<b>Capital (\$/Kg)</b>	<b>Total (\$/Kg)</b>
<b>Monitored Customers</b>			
Pfizer	0.984	0.049	1.033
Graphic Packaging	0.984	(0.013)	0.971
Industrial/Dewatering:			
Inside City	0.984	(0.013)	0.971
Outside City	0.984	0.050	1.034

<b>NH3-N Strength Charge</b>			
	<b>OM&amp;R (\$/Kg)</b>	<b>Capital (\$/Kg)</b>	<b>Total (\$/Kg)</b>
<b>Monitored Customers</b>			
Pfizer	3.607	0.409	4.016
Graphic Packaging	3.607	0.165	3.772



<b>NH3-N Strength Charge</b>			
	<b>OM&amp;R (\$/Kg)</b>	<b>Capital (\$/Kg)</b>	<b>Total (\$/Kg)</b>
Industrial/Dewatering:			
Inside City	3.607	0.165	3.772
Outside City	3.607	0.485	4.092

Kg = Kilogram

- B. In addition to the above charges, each user shall pay the charges for miscellaneous service and monitoring, as determined by the Director. The charges may be revised by the Director whenever, in her/his opinion, it is deemed appropriate. All charges shall be paid to the Department of Public Services, and all funds received as result of the miscellaneous charges will be credited to the wastewater system receiving account.
- C. Any person or entity who is responsible for discharging prohibited material shall be charged the actual expense incurred by the City for handling, treatment and/or removal of said material in the wastewater system.
- D. Any user who is responsible for damage to the wastewater system shall be charged the full cost of repair of damage to the wastewater system. The cost shall include, but is not limited to, labor, equipment, materials, and administrative expense, interest on borrowed funds, engineering, legal, or other professional fees or expenses charged to the City by other utilities or departments and any and all fines, costs, penalties, or damages imposed upon the City by the United States, the State of Michigan, or any court or administrative agency.
- E. Users will be notified at least once per year how much they are being charged for their proportional operation, maintenance, and replacement costs, as required by United States Environmental Protection Agency regulations. (Ord. No. 1649, § 1, 3-9-98).
- F. The rates established by this ordinance amendment shall go into effect for wastewater bills rendered on or after October 1, 2022.

**§ 28-74. Classification of users for billing purposes. [Amended 3-9-1998 by Ord. No. 1649]**

- A. Users of the treatment works shall be divided into classes. Classes shall be groups of users for which the wastewater characteristics are approximately equal and services provided are essentially the same. Classes and subclasses of users are hereby established for capital charges as follows:

**NONINDUSTRIAL USER CLASS**

- a. Individual metered
  - a.1 Inside City
  - a.2 Outside City
- b. Master metered
  - b.1 Outside City
- c. Individual metered
  - c.1 Inside City
  - c.2 Outside City
- d. Contract industries served by Riverview Pumping Station.
- e. Contract industries not served by Riverview Pumping Station.

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The user charges shall result in the distribution of operation, maintenance, and replacement costs of the wastewater system within the jurisdiction of the City to each user class in proportion to such user's contribution of the total wastewater loading of the treatment works. Factors such as strength, volume and delivery flow rate characteristics shall be included to ensure a proportional distribution of the costs. The Director may establish additional classes as are determined to be necessary.

- B. The demand charge provided in § 28-73A applicable to single-family residences within the individually metered nonindustrial class shall be computed on the basis of the size of the water meter actually on the water service to the residence.
- C. The commodity user charge provided in § 28-73B for individually metered users in both the industrial and nonindustrial classes and the contract industrial users shall include the cost of treating wastewater with a level of pollutants up to and including 250 mg/l BOD5; or 625 mg/l COD and 290 mg/l SS. The commodity user charge provided in § 28-73B for master metered users in both the industrial and nonindustrial classes shall include the cost of treating wastewater with a level of pollutants up to and including 250 mg/l BOD5 and 290 mg/l SS.
- D. Residential customers and other small users whose water consumption as purchased from the water department is less than 200 cubic meters during the winter quarter shall be billed for wastewater service in the other three quarters on the basis of the actual consumption of water with a maximum quantity for any quarter equal to 120% of the winter quarter. The winter quarter is defined as a three-month billing period between November first of any one year and April thirtieth of the subsequent year (both dates inclusive) in accordance with water meter reading and billing schedules as used by the water department. Where is evident that the water consumption during the winter quarter does not fairly reflect the yearly consumption for nonsprinkling purposes, the Director may use such three-month period or average as reasonably appears to reflect normal waste after discharge from that residence as a basis for the wastewater disposal service bill. All other users shall be billed on a basis of water actually used in every billing period or actual wastewater discharged through a meter.

**§ 28-75. Applicability of demand charge to property not connected to sewer. [Amended 3-9-1998 by Ord. No. 1649]**

Properties which have water service or a water supply and abut a sanitary sewer and have not been connected thereto shall become liable for payment of the demand charge prescribed in § 28-73 upon the expiration of a five-year period following the date when the sanitary sewer was accepted by the City as being ready for use.

**§ 28-76. (Reserved)**

**§ 28-77. Billing; responsibility for payment. [Amended 3-9-1998 by Ord. No. 1649]**

Wastewater service charges shall be billed quarterly, except that customers billed monthly for water shall be billed monthly for the wastewater service charge. The person paying or responsible for payment of the water bill shall, in like manner, be responsible for payment of the wastewater service bill.

**§ 28-78. When due and payable; penalty and interest for delinquency. [Amended 3-9-1998 by Ord. No. 1649]**

All charges for wastewater service shall become due and payable on the date indicated on each bill. Payment made after such date shall include an additional 5% of the amount due on the due date.

**§ 28-79. Charges as lien; collection by suit, discontinuing wastewater service for failure to pay. [Amended 3-9-1998 Ord. No. 1649; 1-20-2015 by Ord. No. 1931]**

- A. The charges for wastewater service are hereby recognized to constitute a lien on the premises receiving such

§ 28-79 service. This lien shall become effective immediately upon providing wastewater service to the premises but shall be not enforceable for more than three years after it becomes effective. Whenever any such charge against any property shall be delinquent for three months, the City officials in charge of the collection thereof may certify to the tax assessing officer of the City the fact of such delinquency, whereupon such charge shall be entered upon the next roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. Nothing in this section, however, shall be deemed to prevent the City from suing in a court of law to collect the amount due it for wastewater service charges as provided in Subsection C below. In addition to the other remedies provided in this section, the City shall have the right to shut off and discontinue the supply of water service to any premises for the nonpayment of wastewater service charges when due in accordance with the procedure established in Subsection B below.

- B. If a charge for wastewater service prescribed by this article is not paid within 30 days after the billing therefor, and after the customer has been given notice and an opportunity to be heard as provided by law, all water service may be shut off and discontinued to the customer owing or liable for such charge. Water service shut off pursuant to this section shall not be restored until all sums due and owing have been paid in full, including a collection fee of \$10 and appropriate security deposits as prescribed by resolution of the City Commission.
- C. At its option the City may, in addition to the remedies above, in its corporate name, bring suit in any court of competent jurisdiction for the collection of any wastewater service charge which, 30 days after the billing therefor, has not paid. The production of the meter record or cost record shall be prima facie evidence of the liability to pay the amount therein shown to be due.

**§ 28-80. Disposition of revenue. [Amended 3-9-1998 by Ord. No. 1649]**

- A. The revenues of the wastewater system derived from the collection of rates established by this article are hereby ordered to be credited, as collected, to a separate account to be designated as the wastewater system receiving account (hereinafter referred to as the receiving account) and the revenues in such account shall be credited to the following accounts quarterly in the manner hereinafter specified for the purposes therein mentioned. The revenues of the wastewater system may be deposited in such bank accounts and with such depositories as the City Commission may, by resolution or ordinance designate.
- B. Out of the revenue in the receiving account, there shall be credited quarterly to a separate account, designated as the operation and maintenance account, all funds collected from user charges to be used for the administration and operation of the system, including billing, accounting, postage and related costs, and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.
- C. There shall next be established and maintained a separate account, designated as the debt retirement account, which account shall be used solely and only for the purpose of paying the principal of an interest on the bonds of the system as are now or may hereafter be issued, except special assessment bonds. Any tax revenues designated for use in retiring such bonds shall likewise be credited to this account as and when received. There shall be set aside from time to time in such account at least a sufficient amount to meet the principal and interest requirements accruing in the current fiscal year.
- D. After all such funds have been credited as above provided, the revenues derived from the charges collected and taxes designated as aforesaid may be used for the purpose of construction, expansion, extension and improvement of the system.
- E. Any surplus "capital charge" revenues remaining at the end of any fiscal year, after the above requirements have been met, shall be credited to the system surplus account and shall be disposed of as directed by the City Commission.

**§ 28-81. through § 28-90. (Reserved)**



**Chapter 29**

**STORMWATER SYSTEM**



§ 28-81

§ 28-81

**[HISTORY: Adopted by the City Commissioners of the City of Kalamazoo 9-20-2004 by Ord. No. 1776. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Wastewater discharge regulations and enforcement procedures — See Ch. 28.**

**Soil erosion and sediment control — See Ch. 30.**

**Water — See Ch. 38.**





**§ 29-1. Purpose; intent.**

A. The objectives of this chapter are:

- (1) To provide environmental protection to the waters of the state consistent with the State and Federal Clean Water Acts;
- (2) To regulate discharges into the City of Kalamazoo's stormwater system;
- (3) To remove existing and prevent the introduction of pollutants into the City's stormwater system, and the degradation that said constituents may cause to the environment;
- (4) To require permits for connections to the system and to prohibit nonpermitted connections; and
- (5) To establish legal authority to inspect and monitor use of the City's stormwater system to ensure compliance with this chapter, and to establish sanctions for those who violate this chapter.



§ 29-1

**§ 29-2. Definitions.**

For the purposes of this chapter, the following shall mean:

**ACT** — Act 230, of the Public Acts of 1972, as amended, commonly known as the "Stille-DeRossett-Hale Single State Construction Code Act," and includes all international or national codes, including such codes' rules or appendices, as more fully set forth in Section 4 of the Act. **[Added 8-18-2008 by Ord. No. 1846]**

**BEST MANAGEMENT PRACTICES (BMPs)** — Devices or practices consistent with the guidelines set forth in the most current MDEQ Guidebook of BMPs for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this chapter, as approved by the Department, that prevent pollutants from entering into stormwater flows, that direct the flow of stormwater, or that treat polluted water before it enters the stormwater system.

**DISCHARGE PERMIT** — A permit issued by the Department of Public Services ("Department"), Engineering Division or other division as designated by the Director to a user for a discharge into the City's stormwater drainage system.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** — An official map of a community, issued by the FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M and/or E. **[Added 8-18-2008 by Ord. No. 1846]**

**FLOOD or FLOODING** —

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters;
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source;
  - (3) Mudflows; and
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in Subsection A(1) of this definition. **[Added 8-18-2008 by Ord. No. 1846]**

**FLOODPLAIN** — Any land area susceptible to being inundated by water from any source (see definition of "flooding"). **[Added 8-18-2008 by Ord. No. 1846]**

**FLOODPLAIN MANAGEMENT** — The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations. **[Added 8-18-2008 by Ord. No. 1846]**

**FLOODPLAIN MANAGEMENT REGULATIONS** — In addition to this chapter, zoning ordinances, land division regulations, building codes, health regulations, and other applications of police power that provide standards for the purpose of flood damage prevention and reduction. **[Added 8-18-2008 by Ord. No. 1846]**

**ILLICIT CONNECTION** — Any method or means for conveying an illicit discharge into the stormwater drainage system of the City.

**ILLICIT DISCHARGE** — Any direct or indirect non-stormwater discharge (or seepage) to the stormwater system that is not composed entirely of stormwater or uncontaminated groundwater, except as exempted in this chapter. These are considered illicit because municipal separate storm sewer systems (MS4s) are not designed to accept, process or discharge such discharges.

**MDEQ** — Michigan Department of Environmental Quality.

MS4 — Municipal separate storm sewer system, as defined by federal and state laws.

NPDES — National Pollutant Discharge Elimination System, as addressed in 33 U.S.C. § 1342(b) and the Federal Clean Water Act, as amended.

NPDES STORMWATER DISCHARGE PERMIT — A permit issued by the U.S. Environmental Protection Agency (EPA) [or a state under authority delegated pursuant to 33 U.S.C. § 1342(b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis. For the purposes of this chapter, the subject NPDES permit is issued to the City by the MDEQ.

PERSON — Any individual, association, organization, partnership, firm, corporation or other entity recognized by law.

POLLUTANT — Any substance which, alone or in combination with other substances, if discharged to waters of the state in sufficient quantities, causes or contributes to, or has the potential to cause or contribute to, a violation of a federal, state, or local water quality standard, a nuisance, or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, industrial, agricultural, recreational, or other legitimate beneficial uses or to any organism, aquatic life, plant or animal. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; sediment; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

STORMWATER — Run off from natural precipitation, including snowmelt, as well as other surface runoff and drainage that flow via natural or man-made drainage ways.

STORMWATER DRAINAGE SYSTEM (STORMWATER SYSTEM) — Any mode of conveyance that allows or permits the flow of stormwater to waters of the state, excluding combined sewer systems and sanitary sewer systems (separate stormwater systems are not intended to carry sanitary wastewater). The conveyance may be opened or enclosed, public or private, and may contain nonstormwater discharges. Specifically, the stormwater system includes all of the City's storm sewer infrastructures and natural drainage designs that are intended to collect, control, and provide a method of conveyance, discharge, and perhaps treatment of stormwater. This may include roads with drainage systems, municipal streets, catch basins, inlets, curbs, gutters, ditches, and man-made swales, channels, wetlands, storm drains, outfalls, and treatment structures.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A document, which describes the best management practices (BMPs) and activities to be implemented by a person or business to identify known or potential sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater drainage ways, and/or receiving waters to the maximum extent practicable.

STRUCTURE — Anything built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. **[Added 8-18-2008 by Ord. No. 1846]**

WASTEWATER — Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATERS OF THE STATE — Great Lakes and their connecting waters, all inland lakes, rivers, streams, impoundments, open drains, and other surface bodies of water within the confines of the state. It does not include drainage ways and ponds used solely for wastewater conveyance, treatment, or control.

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**§ 29-3. Responsibility for administration. [Amended 8-18-2008 by Ord. No. 1846]**

The City's Department of Public Services ("Department") shall administer, implement and enforce the provisions of this chapter. For purposes of floodplain management regulations, the Department will work in conjunction with the City's building officials in performing such responsibilities. In addition, any other powers granted or duties imposed upon the Department may be delegated in writing by the Department Director to third parties as the Director deems appropriate.



**§ 29-4. Discharge prohibitions.****A. Prohibition of illicit discharges.**

- (1) A person shall not discharge, directly or indirectly, any pollutant into the City's stormwater system, except in quantities expressly authorized by an approved NPDES permit or by a plan for compliance, or that are consistent with the utilization of best management practices.
- (2) A person shall not improperly store, handle, or apply any pollutant in a manner that will cause its exposure to rainfall or runoff or otherwise cause it to discharge into the stormwater system, except in quantities explicitly authorized by an approved NPDES permit or by a plan for compliance, or that are consistent with the utilization of best management practices.
- (3) The following shall not be deemed to be an illegal discharge (unless identified by the Department as a source of pollutants or deemed to be an interference to the proper operation and maintenance of the stormwater drainage system):
  - (a) Water supply line flushing, landscape irrigation runoff, diverted stream flows, rising groundwaters, uncontaminated groundwater infiltration [as defined by 40 CFR 35.2005 (20)], pumped groundwater (except for groundwater cleanups not specifically authorized by NPDES permits), discharges from potable water sources, foundation drains, air conditioning condensate, irrigation water, springs, water from crawl space pumps, footing drains and basement sump pumps, lawn watering runoff, waters from noncommercial car washing, flows from riparian habitats and wetlands, and residual street wash waters, discharges or flows from emergency fire fighting activities;
  - (b) Residential swimming pool discharges so long as the pool waters have been effectively dechlorinated (less than 0.5 parts per million chlorine) and so long as the discharge does not occur during times of heavy rains (nonresidential/commercial swimming pools are regulated under Chapter 34, Swimming Pools, of the Kalamazoo Code and Chapter 28, Wastewater Discharge Regulations and Enforcement Procedures);
  - (c) Discharges specified by the Department as being necessary to protect public health and safety;
  - (d) Dye testing using MDEQ or Department approved dyes, so long as preceded by a written notification to and approval from the Department; and
  - (e) Any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency or MDEQ, provided that the discharger is in full compliance with all requirements of the permit or order, and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the stormwater system.
- (4) No person shall place any material in or around any stormwater system component, including catch basins, inlets, manholes, culverts, pipes, or natural watercourse, if such material acts to significantly obstruct or clog the stormwater system or stormwater flow. This prohibition shall not apply to the temporary placement of material as acceptable and consistent with official City material collection programs and policies (such as leaf or brush pickups).
- (5) A person may not discharge fluids into or towards the stormwater system if such discharge accumulates and freezes on a street or sidewalk, or is reasonably likely to do so.

**B. Prohibition of illicit connections.**

- (1) No person shall construct, use, maintain, or allow to continue to exist a connection to the stormwater system unless first permitted to do so by the City's Department of Public Services, Engineering Division

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or other department designated division.

- (2) This requirement includes, without limitation, connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this chapter if the person connects a conduit conveying wastewater to the MS4, or allows such a connection to continue.



§ 29-4

**§ 29-5. Floodplain management. [Added 8-18-2008 by Ord. No. 1846<sup>139</sup>]**

- A. Pursuant to the provisions of Section 8b of the Act, the City is hereby designated as the enforcing agency to discharge its responsibility under the Act and assumes responsibility for the administration and enforcement of the Act, including Appendix G of the Michigan Building Code, as amended, throughout its corporate limits.
- B. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled "Kalamazoo County, Michigan (Community No. 260315)," referred to as "Flood Insurance Study No. 26077CV000A" and dated February 17, 2010, and the Flood Insurance Rate Maps (FIRMs) generated by that study, are identified as follows: **[Amended 2-1-2010 by Ord. No. 1866]**

Map No.	Date	Type
1. 26077C0169D	February 17, 2010	FIRM
2. 26077C0175D	February 17, 2010	FIRM
3. 26077C0179D	February 17, 2010	FIRM
4. 26077C0180D	February 17, 2010	FIRM
5. 26077C0185D	February 17, 2010	FIRM
6. 26077C0186D	February 17, 2010	FIRM
7. 26077C0187D	February 17, 2010	FIRM
8. 26077C0188D	February 17, 2010	FIRM
9. 26077C0189D	February 17, 2010	FIRM
10. 26077C0191D	February 17, 2010	FIRM
11. 26077C0195D	February 17, 2010	FIRM
12. 26077C0285D	February 17, 2010	FIRM
13. 26077C0301D	February 17, 2010	FIRM
14. 26077C0302D	February 17, 2010	FIRM
15. 26077C0310D	February 17, 2010	FIRM

and are adopted by reference (including any subsequent amendments or replacements) and declared to be a part of Section 1612.3 of the Michigan Building Code.

- C. In performing the responsibilities under § 29-3, the Department and building officials shall administer, apply, and enforce the floodplain management regulations as contained in the State Construction Code (including Appendix G) and to be consistent with those regulations by:
- (1) Obtaining, reviewing and reasonably utilizing flood elevation data available from federal, state, or other sources pending receipt of data from FEMA to identify the flood hazard area and areas with potential flooding.
  - (2) Ensuring that all permits necessary for development in floodplain areas have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
  - (3) Reviewing all permit applications to determine whether the proposed building sites will be reasonably

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139. Editor's Note: This ordinance also renumbered former §§ 29-5 through 29-17 as §§ 29-6 through 29-18, respectively.

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safe from flooding. Where it is determined that a proposed building will be located in a flood hazard area or special flood hazard area, the Construction Code Act enforcing agent shall implement the following applicable codes according to their terms:

- (a) Floodplain management regulation provisions, and referenced codes and standards, of the Michigan Residential Code, as amended.
  - (b) Floodplain management regulation provisions, and referenced codes and standards, of the Michigan Building Code, as amended.
  - (c) Appendix G of the Michigan Building Code, as amended.
- (4) Reviewing all proposed subdivisions or land divisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations.
  - (5) Assisting in the delineation of flood hazard areas; providing information concerning uses and occupancy of the floodplain or flood-related erosion areas, maintaining floodproofing and lowest floor construction records, cooperating with other officials, agencies, and persons for floodplain management.
  - (6) Advising FEMA of any changes in City boundaries, including appropriate maps.
  - (7) Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, floodproofing, and elevations to which structures have been floodproofed.
- D. In conjunction with this section, the City has adopted a "Resolution to Manage Floodplain Development for the National Flood Insurance Program (NFIP)," and may from time to time adopt other resolutions in order for the city to continue to participant in the NFIP.

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**§ 29-6. Compliance with other permits.**

Any person subject to a NPDES stormwater discharge permit, City of Kalamazoo soil erosion and sedimentation control permit, or City of Kalamazoo site plan review shall comply with all provisions of such permit or approvals. Proof of compliance with said permits or approvals may be required in a form acceptable to the Department prior to the allowing of discharges to the MS4.



**§ 29-7. Monitoring of discharges.**

A. Access to facilities.

- (1) As a condition to having a connection to the City's stormwater system, an industrial or commercial facility shall permit the Department to enter and inspect at reasonable times and in a reasonable manner to determine compliance with this chapter. Such entry and inspection may include but not be limited to sampling, analysis, dye testing, smoke testing, remote video inspection (Tving), and examination and/or copying of records that are required by this chapter to be maintained.
- (2) The Department may require a commercial or industrial facility that discharges into the City's stormwater system to install devices as are reasonably necessary to monitor and/or sample the facility's stormwater discharge. In the alternative, and at the City's option, the City may install such devices. All such devices shall be calibrated to ensure accuracy.
- (3) The City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining entry to a facility if the Department has been refused access to any part of the premises from which stormwater originates and/or is discharged, and if the Department is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community. In addition, or in the alternative, the Department, if denied entry, may terminate the facility's connection to the stormwater system. Such termination must be preceded by written notice to the facility of such intent.



**§ 29-8. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.**

- A. If the owner or operator of a facility does not provide reasonable protection from illicit discharge, the Department may require best management practices (BMPs) and/or stormwater pollution prevention plans (SWPPPs) for a facility that discharges, or is reasonably suspected of discharging, pollution into the stormwater system, at the facility's expense. A BMP shall be consistent with the guidelines set forth in the most current MDEQ Guidebook of BMPs for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this chapter, as approved by the Department. A BMP and/or a SWPPP, which may be imposed even if the facility is subject to a NPDES permit, shall be communicated in writing by the Department to the facility.
  
- B. If the facility believes all or a portion of the BMP or SWPPP is unreasonable, it may appeal it to the Department Director. Such an appeal must be in writing and must be received by the Department Director within 14 days of when the BMP and/or SWPPP notification is received by the facility. In the absence of such an appeal, the facility shall implement the BMP and/or SWPPP before the deadline stipulated by the Department in the original written notification regarding the BMP requirement. If an appeal is denied, the facility shall implement the BMP and/or SWPPP within a deadline stipulated by the Department in the appeal denial notification letter. The required BMP implementation time period will be based on the severity of the specific situation and may range from one day to 45 days.





**§ 29-9. Notification of spills.**

- A. Notwithstanding other requirements of law, as soon as any person responsible for a facility, or responsible for emergency response for a facility, has information of a release, or suspected release, of pollutants into the stormwater system, said person shall take all reasonable and necessary steps to discover, contain, and clean up such release, including, if necessary, contacting emergency response agencies. Said person shall also notify the Department of the discharge either in person, by telephone, or by facsimile as soon as possible, but in no event more than six hours after learning of the release.
  
- B. All spill notifications provided to the Department in person or by telephone shall be documented by said person in writing and mailed to the Department within five business days of said incident. Such written notice shall specify the following: the composition of the discharge and the cause thereof; the exact date, time, and estimated volume of the discharge; all measures taken to clean up the discharge, and all measures proposed to be taken to reduce and prevent any recurrence; the name and telephone number of the person making the report, and the name of the person who may be contacted for additional information on the matter. The person shall also provide the Department with copies of all documents the person submits to state or federal agencies relating to the same release.



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**§ 29-10. Records, reports, sampling and analysis.**

A facility shall prepare and maintain records and/or conduct such testing and analysis as deemed necessary by the Department to insure compliance with a BMP or a SWPPP. The facility shall make such records and test results available to the Department upon request. The owner or operator shall retain a copy of the written notice, all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or stormwater runoff from any property for at least five years.



**§ 29-11. Enforcement.**

- A. Whenever the Department finds that a person has violated a provision of this chapter, the Department may order compliance by issuing a written notice of violation to the responsible person. Such notice may require one or more of the following:
- (1) The performance of monitoring, analyses, and reporting;
  - (2) The elimination of an illicit connection or discharge;
  - (3) That violating discharges, practices, or operations cease and desist;
  - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (5) The abatement and correction of any degradation of riparian habitat and aquatic life caused by the failure to design, install, operate, or maintain sediment control, stormwater management, or agricultural BMPs in accordance with an approved sediment control plan, stormwater plan, sediment control permit, Soil Conservation and Quality Plan, or plan for compliance;
  - (6) The reimbursement to the City in an amount sufficient to reimburse the City for all reasonable administrative and remediation costs; and
  - (7) The implementation of source control or treatment BMPs.
- B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by the Department, with the expense thereof charged to the violator.



**§ 29-12. Appeal of notice of violation.**

- A. Any person receiving a notice of violation may appeal the determination to the Department Director. The notice of appeal must be received by the Director within 30 days from the date of the notice of violation and identify the matter being appealed and the basis for the appeal. The Director shall address the appeal within 30 days from the date of receipt of the notice of appeal. The Director will consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the Director may consider the recommendations of its staff and the comments of other persons having knowledge of the matter.
- B. In considering all such appeals, the Director may grant a variance from the terms of this chapter so as to provide relief, in whole or in part from the action being appealed, but only upon finding that the following requirements are satisfied:
  - (1) The application of the chapter provisions being appealed will present or cause unreasonable difficulties for a facility; and
  - (2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this chapter from being accomplished, nor result in less effective management of stormwater runoff.





**§ 29-13. Suspension of access to City stormwater system.**

- A. The Department may, after providing written notice, suspend MS4 discharge access to a person in violation of this chapter. Written notice shall describe the nature of the violation and the action necessary to correct the violation. If the violation continues for 10 calendar days after the notice was sent, the Department may suspend MS4 discharge access.
- B. The Department may suspend MS4 discharge access to a person in violation of this chapter, without prior notice, when such suspension is necessary to stop an actual or threatened discharge that presents an imminent and substantial danger to the City's stormwater system or to the environment.



**§ 29-14. Abatement activities by Department.**

- A. The Department may perform reasonable and necessary abatement activities whenever the Department determines a violation of this chapter has occurred and it appears that the responsible party cannot or will not timely perform said activities, or when no known responsible party exists. The responsible party shall reimburse the City for all reasonable expenses thus incurred.
- B. If the City desires the responsible party to reimburse it for reasonable abatement activity expenses, the City shall, within 90 days of the completion of said activities, mail to that person a notice of claim outlining the expenses incurred, including reasonable administrative costs, and the amounts thereof. The person billed shall pay said sum in full within 30 days of receipt of the claim. If the person billed desires to object to all or some of the amount sought by the Department, said person may file, within the same thirty-day period, a written objection so stating. The Department shall, within 30 days of its receipt of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the Department determines that some or all of the amount originally billed is appropriate, the person shall pay said sum within 30 days of receipt of that determination. If the amount due is not timely paid, the City may cause the charges to become a special assessment against the property and shall constitute a lien on the property.



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§ 29-15

**§ 29-15. Injunctive relief.**

If a person has violated or continues to violate the provisions of this chapter, the Department may petition the appropriate court for injunctive relief restraining the person from activities which would create further violations, or compelling the person to perform necessary abatement or remediation.



§ 29-15

§ 29-16

**§ 29-16. Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.





§ 29-16

§ 29-17

**§ 29-17. Criminal prosecution.**

Any person who violates this chapter shall be guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisonment of not more than 90 days. Each day a violation exists shall be deemed a separate violation.



§ 29-17

§ 29-18

**§ 29-18. Remedies not exclusive.**

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Department to seek cumulative remedies.



**Chapter 30**

**SOIL EROSION AND SEDIMENTATION CONTROL**



§ 29-18

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 3-7-2022 by Ord. No. 2047.<sup>140</sup> § 30-1**

**Amendments noted where applicable.]**

**§ 30-1. Purpose.**

The purpose of this chapter is to control soil erosion and sedimentation with respect to earth change activities within the City, by requiring proper provision for water disposal and protection of soil surfaces during and after construction, in order to promote the safety, public health and general welfare of the City, as well as to limit the exposed area of any disturbed land for the shortest possible period of time.

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**140. Editor's Note: This ordinance repealed former Ch. 30, Soil Erosion and Sedimentation Control, adopted 7-18-2005 by Ord. No. 1790.**





**§ 30-2. Definitions.**

A. The following definitions shall apply in the interpretation and enforcement of this chapter:

ACT 451 — Part 91, Soil Erosion and Sedimentation Control (SESC), of the Natural Resources and Environmental Protection Act, being Act No. 451 of the Public Acts of 1994, as amended (See also MCLA § 324.9101 et seq.) as well as the promulgated rules of the Michigan Department of Environment, Great Lakes, and Energy (EGLE).

CERTIFICATION OF COMPLETION — A signed written statement of the Building Official or the Building Official's designee that specific construction has been inspected and found to comply with all requirements specified in this chapter and any permit issued in accordance with this chapter.

CITY BUILDING OFFICIAL — The City Building Official of the City of Kalamazoo or his/her duly authorized representative, who has completed the required EGLE - SESC training and certification.

EARTH CHANGE — A human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state or a discharge of sediment off-site. "Earth change" does not include the practice of plowing and tilling soil for the purpose of crop production.

EROSION — The process by which land is worn away by action of wind, water, gravity or a combination thereof.

EXCAVATION or CUT — Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and shall include the conditions that result from such activities.

FLOODPLAIN — That land area in proximity to a river, stream, lake, or drain that may on occasion overflow and become inundated by floodwater or storm runoff.

GRADING — Any stripping, excavating, filling, stockpiling or any combination of such activities, and shall include the land in its excavated or filled condition.

MUNICIPAL ENFORCING AGENCY (MEA) — The Department of Community Planning and Development, or such subsequent department or division as the City Manager designates in writing as having enforcement responsibilities under this chapter.

PERMIT — A permit issued to authorize work to be performed under this chapter in accordance with Act 451, including rules promulgated under Act 451.

STRIPPING — Any activity that removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.

B. Words, terms and phrases used in this chapter, unless defined in this section, shall have the meaning ascribed to them in Act 451, including rules promulgated under Part 91.



§ 30-2

§ 30-3

**§ 30-3. Compliance.**

Except with respect to an earth change for which no permit is required, a certificate of occupancy for any building shall not be issued unless the applicant first obtains a certificate of completion from the MEA.



**§ 30-4. Permits and plans.**

- A. A landowner or designated agent who contracts for, allows, or engages in an earth change in the City shall obtain a permit from the MEA prior to commencement of an earth change which disturbs one or more acres of land, or is within 500 feet of waters of the state as defined by Act 451. A permit is not required for those activities that are exempt from permits as specified in Sections 9115 and 9115a of Act 451 (See MCLA §§ 324.9115 and 324.9115a) and Michigan Administrative Rules 323.1705 and 323.1706, as amended. Failure to obtain a permit before initiating an earth change shall be deemed a violation of this chapter.
- B. A soil erosion and sedimentation control plan shall be prepared for any earth change identified in § 30-4A. The plan shall be designed to effectively reduce accelerated soil erosion and sedimentation and shall identify factors that may contribute to soil erosion, or sedimentation, or both. The plan shall further implement the soil erosion and sedimentation control procedures and measures prescribed by all sections of the Part 17 Rules (primarily set forth in Michigan Administrative Rules 323.1703, 323.1709 and 323.1710).



§ 30-4

**§ 30-5. Application review and permit procedures.**

§ 30-5

All application review and permit procedures shall be in accordance with Act 451 and this chapter.





§ 30-5

§ 30-6

**§ 30-6. Fees.**

At the time of filing an application for a permit, a nonrefundable fee shall be charged for plan review. Upon approval of the plans, a permit will be issued and a fee shall be made for the permit, including inspections. Fees will be in accordance with a fee schedule adopted by resolution of the City Commission from time to time.



**§ 30-7. Bond requirement.**

- A. When a permit has been issued for an earth change related to unique features presenting on the land, contour conditions, identified protected areas, and/or the prior performance record of the contractor, the permittee, at the discretion of the MEA, may be required to post with the City a bond executed by the owner or the owner's contractor issued by a surety authorized to do business within the state; provided, however, that a bond shall not be required for single-family residential units less than one acre in size.
- B. The bond shall be in a form approved by the City Attorney, payable to the City and in an amount sufficient to assure the installation and completion of such protective and corrective measures as may be required by the MEA. The bond may include penalty provisions for failure to complete the work on schedule as specified in the permit.
- C. Every bond shall include language requiring the permittee to comply with all the provisions of this chapter and all terms and conditions of the permit and to complete all work contemplated under the permit within the time limit specified in the permit. If no time limit is specified, the project shall be completed within 365 days after the date of the issuance of the permit.



§ 30-7

§ 30-8

**§ 30-8. Extension of time.**

Not less than 10 days prior to the expiration date of a permit, a permittee may present in writing to the MEA a request for an extension where the permittee asserts that it is unable to complete the work within the specified time. For good cause shown, the MEA may grant additional time for completion, but no extension shall be treated or interpreted as a release of the surety bond.



**§ 30-9. Failure to complete work.**

- A. In the event of failure to complete work required as part of an approved permit, the MEA may order such work as necessary to provide for effective soil erosion and sedimentation control. The permittee and the surety executing the bond shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred by the City in causing any and all work to be done to comply.
- B. Notwithstanding other provisions of this chapter, the MEA may avail itself all the rights provided under Act 451 in the event a permittee fails to comply with an approved soil erosion and sediment control plan or other permit conditions.





**§ 30-10. Denial of permit.**

Permits shall not be issued where:

- A. The proposed work would cause uncontrolled soil erosion and sedimentation; or
- B. The proposed work would cause hazards to the public safety and welfare; or
- C. The proposed work will damage any public or private property, interfere with an existing drainage course so as to cause damage to adjacent property, result in the deposit of debris or sediment on any public way, waters of the state or create an unreasonable hazard to persons or property; or
- D. The land area in which work is to occur is subject to geological hazard such that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability or any other such hazard to persons or property; or
- E. The land area in which the work is to occur is within the floodplain of any stream or watercourse, unless a permit from the EGLE approving the work accompanies the application and a hydrologic report prepared by a professional engineer is submitted certifying that the proposed work will have no detrimental influence on the public welfare or upon the total development of the watershed; or
- F. The proposed work unreasonably exposes the land to repeated disturbances.



§ 30-10

§ 30-11

**§ 30-11. Modification of approved plans.**

Any modification of an approved plan must be submitted to and approved by the MEA. All necessary supplemental reports shall be submitted with the proposal to modify the approved plan. No work in connection with any proposed modification shall be permitted without the prior approval of the MEA.



**§ 30-12. Responsibility of permittee.**

During operations associated with the approved soil erosion and sedimentation control plan, the permittee shall be responsible for:

- A. The prevention of damage to or sedimentation of waters of the state, adjacent properties or public areas. No person shall grade on land so close to a property line as to endanger any public street, sidewalk, alley or any public or private property without supporting and protecting such property from settling, cracking or other damage that might result. Similarly, no person shall permit sediment or runoff to occur on public streets, sidewalks, alleys or other public area.
- B. Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of the permit, this chapter and Act 451.
- C. The prompt removal of any sediment that may inadvertently be deposited in any lake, drain, stream or wetland.
- D. The permanent control and restoration measures being implemented at the site within five calendar days following final grading of the site.



§ 30-12

§ 30-13

**§ 30-13. Maintenance requirements.**

Persons carrying out soil erosion and sedimentation control measures under this chapter, and all subsequent owners of the property concerning which such measures have been taken, shall be liable to maintain all permanent anti-erosion and sediment control devices, retaining walls, structures, plantings, and other protective devices.





§ 30-13

§ 30-14

**§ 30-14. Minimum design standard for erosion and sediment control.**

All grading plans and specifications, including amendments to previously approved plans, shall include provisions for erosion and sediment control in accordance with, but not limited to, the standards contained in the current versions of Michigan Department of Transportation's Soil Erosion and Sedimentation Control Manual or the Michigan Department of Technology, Management and Budget's Soil Erosion and Sedimentation Control Guidebook. Current copies of these publications shall be available for public inspection in the office of the Building Official.



§ 30-14

§ 30-15

**§ 30-15. Variances and exceptions.**

Where it is alleged that there is an error or misinterpretation in any order, requirement, determination or interpretation made by the MEA on non-Part 91 issues, the applicant may file an appeal with the Construction Board of Appeals. Such appeal must be filed within 21 days of the issuance of the decision at issue. The Construction Board of Appeals may, by a majority vote of its members serving, affirm, reverse, or affirm with conditions the appeal consistent with the general purposes and the intent of this chapter.



**§ 30-16. Inspection and enforcement.**

- A. Representatives of the MEA may enter at all reasonable times in or upon private property or public property for the purpose of inspecting and investigating conditions or practices associate with the issuance of a permit. If the MEA finds that the permittee has not complied with Act 451 or this chapter and that the work does not conform to the permit issued, a correction notice shall be issued. Contingent on there being evidence of prompt corrective action the permit shall stand. If timely corrective action is absent, the permit may be revoked. The permittee shall be notified by mail of the MEA's determination. The permittee shall immediately, and no later than five calendar days following the issuance of the notice, implement and maintain soil erosion and sediment control measures consistent with the approved plans, Act 451, and this chapter. The permittee shall continue to be firmly bound under a continuing obligation for the payment of all necessary cost and expenses that may be incurred by the MEA in causing any and all work to be done to comply with the regulations.
- B. Upon satisfactory execution of all proposed earth change plans and other requirements, the permittee shall file a written notice of completion so that the MEA may make a final inspection and issue a certificate of completion and release of the bond. If the project is to be completed in different phases, the MEA may issue separate permits and certificates of completion and bond release for each phase of the earth change project.
- C. Notwithstanding any other provision of this chapter, the MEA shall have the right to avail itself to all enforcement mechanisms provided for by the Act 451. All state rules and regulations promulgated under Part 91 of the Act are hereby incorporated by reference into this chapter.



**§ 30-17. Penalties.**

- A. Any person, firm or corporation who violates any provision of this chapter is responsible for a municipal civil infraction and shall be fined not more than \$2,500 for each violation. A civil infraction citation for a violation of this chapter may be issued by the Building Official, or by such person as the City Commission or City Manager may designate.
- B. Each day a violation exists or continues shall be deemed as a separate offense.
- C. Any person, firm or corporation found responsible for a violation of this chapter within two years of a prior conviction for a violation of this chapter shall be fined an amount double the amount assessed for the immediately preceding violation or the maximum fine permitted by state law, whichever is less.
- D. In addition to the remedies provided in this chapter, the MEA may, following proper notification, enter the property for the purpose of correcting or abating the violation in accordance with Act 451 and Michigan law.
- E. In addition to fines assessed pursuant to this chapter, a person, firm, or corporation found to be responsible for a violation shall pay the MEA's actual costs, direct or indirect, for correcting and abating the violation, and the actual costs, direct and indirect, to which the MEA has incurred in correcting or abating the violation to the extent permitted by law. In the event that the MEA is not reimbursed for its costs within 30 days of the date it provides written notice to the property owner(s), the fines and costs may be added to and made a part of the next City tax bill against the subject premises and may be collected in the same manner as provided by Michigan law for the collection of City taxes on real estate.





§ 30-17

§ 30-18

**§ 30-18. Civil remedies.**

In addition to any other remedies provided in this chapter, the City or the MEA may also proceed against any person, firm or corporation for a violation of this chapter by seeking injunctive relief and/or damages.



**Chapter 31**  
**SOLID WASTE**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Adoption of county refuse and garbage ordinance — See § 1-6B(7).**

**facilities — See § 17-89.**

**Removal and disposal of debris resulting from building wrecking and moving operations — See § 9-252 et seq.**

**Accumulations of trash and rubbish as nuisances — See § 22-3.**

**Garbage and trash — See Ch. 15A.**

**Littering public or private property — See § 22-10.**

**Requirements of Housing Code relative to rubbish and trash disposal**

**Owners or occupants of adjacent property not to permit rubbish to remain on sidewalks or alleys — See § 33-18.**



§ 31-1

§ 31-15

**ARTICLE I  
In General**

**§ 31-1. (Reserved)**

**§ 31-2. (Reserved)**

**§ 31-3. (Reserved)**

**§ 31-4. (Reserved)**

**§ 31-5. (Reserved)**

**§ 31-6. (Reserved)**

**§ 31-7. (Reserved)**

**§ 31-8. (Reserved)**

**§ 31-9. (Reserved)**

**§ 31-10. (Reserved)**

**§ 31-11. (Reserved)**

**§ 31-12. (Reserved)**

**§ 31-13. (Reserved)**

**§ 31-14. (Reserved)**

**§ 31-15. (Reserved)**





ARTICLE II  
**Deposit for Public Collection**  
**[Adopted 5-5-1975 by Ord. No. 1056]**

**§ 31-16. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this article:

**GARBAGE** — The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

**SOLID WASTE** — Includes household rubbish, refuse and debris.

**§ 31-17. General authority. [Amended 9-7-1982 by Ord. No. 1268]**

Solid waste may be deposited for public collection by the City or its duly authorized contractor in accordance with the provisions of this article and regulations issued from time to time by the Director of the Department of Public Services.

**§ 31-18. Prohibited deposits.**

A. No person shall deposit, for public collection by the City or its duly authorized contractor:

- (1) Any solid waste accumulated other than from, by, or arising out of, the domestic use of his residential property.
- (2) Any rocks, sand, concrete, rubble or similar building materials.
- (3) Any garbage.
- (4) Any dead animals, fowl or fish.
- (5) Any explosives, highly inflammable materials or chemicals which could cause explosions.
- (6) Any solid waste item which cannot be lifted or loaded by two persons of average size, without assistance of any equipment or machinery.
- (7) Any solid waste which is not contained, packaged or wrapped in a container that is impervious to water, wind or which cannot be readily lifted or loaded without rupturing.

**§ 31-19. Solid waste to be placed in containers or bundled.**

Any solid waste deposited for public collection consisting of or containing grass clippings, leaves, weeds, hedge or shrub trimmings, ashes, newspapers, waste paper or other loose or easily scattered materials, shall be deposited in suitable containers to be made of galvanized metal, wood fiber, plastic or other nonrusting material. Newspapers and magazines, when securely tied in bundles, need not be placed in containers for collection. Branches or brush, when deposited for collection, shall be securely bundled and shall not exceed four feet in length.

**§ 31-20. Place of deposit. [Amended 7-9-1990 by Ord. No. 1498]**

Any solid waste set out for public collection shall be deposited on the curb lawn and adjacent to the curb of the public street in front of the premises where the solid waste was generated; or in locations where there is no curb, it shall be placed adjacent to the gravel shoulder of the public street in front of the premises where the solid waste was generated. In no instance shall solid waste be placed or deposited in or on the improved portion or traveled roadway of the public street right-of-way; nor shall solid waste generated at one premises be deposited on, at, in front of or next to another premises.

**§ 31-21. Time of deposit.**

Any solid waste deposited for public collection shall not be deposited earlier than 7:00 a.m. of the day preceding the day of regularly scheduled monthly collection for the district in which such solid waste is deposited, except that solid waste shall not be deposited for public collection earlier than 3:00 p.m. on Sundays.

**§ 31-22. Removal.**

Any solid waste deposited for public collection which is not, for any reason, collected by the City or its authorized contractor on the day on which collection is actually performed in the district in which the solid waste is deposited, shall be removed from the public view within two days following completion of the regularly scheduled monthly collection for that district.

**§ 31-23. Responsibility for violations of article.**

The owner of the premises upon which a violation of this article occurs, the tenant or person in charge of the premises upon which such violation occurs, or the owner or depositor of the solid waste found to be in violation of this article shall be responsible for such violation.

**§ 31-24. Prosecutions for violations of §§ 31-18 through 31-22. [Added 8-22-1983 by Ord. No. 1290]**

Prosecutions for violations of §§ 31-18, 31-19, 31-20, 31-21 and 31-22 may be commenced by issuing an appearance ticket. The City Manager may designate a City employee(s) as appearance ticket officer(s) and the employee(s) so designated are authorized to issue and serve the appearance ticket authorized by this section.

**§ 31-25. Penalties. [Added 8-22-1983 by Ord. No. 1290]**

- A. First offense. Any person, firm or corporation found guilty of violating any provision of this article shall be fined \$25 for the first offense.
- B. Second offense. Any person, firm or corporation found guilty of violating any provision of this article for the second time within any one-year period shall be fined \$50.
- C. Third and subsequent offenses. Any person, firm or corporation found guilty of violating any provision of this article for the third time, or any subsequent time thereafter, within any one-year period shall be fined not less than \$100 nor more than \$500 or imprisoned for not more than 90 days, or both fined and imprisoned, in the discretion of the court.

**Chapter 32**

**SPECIAL ASSESSMENTS FOR PUBLIC IMPROVEMENTS**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]**

**CHARTER REFERENCES**

Tax sale procedure — See § 88 et seq.

Special improvements — See § 108 et seq.

**GENERAL REFERENCES**

Wastewater discharge regulations and enforcement procedures — See Ch. 28. replacement — See § 33-36 et seq.

Special assessments for sidewalk construction, repair or mains — See § 38-6D. Application of this chapter to installation of water distribution

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**§ 32-1. Title. [Adm. Code § A600.1]**

This chapter shall be known as the "Special Assessment Ordinance" and it may be referred to and cited as such.

**§ 32-2. Definitions. [Adm. Code § A600.2]**

The following terms, as used in this chapter, shall have the meanings herein ascribed to them:

**COST** — When referring to the cost of any improvement, shall include the cost of surveys, plans, land, right-of-way, spreading of rolls, notices, advertising, legal and financial advice, financing and construction and all other costs incident to the making of such improvement, the special assessment therefor and the financing thereof.

**IMPROVEMENT** — Any public improvement, the whole or any part of the cost of which is assessable against one or more lots or parcels of land especially benefited thereby, in proportion to the benefit to be derived therefrom.

**§ 32-3. General authority of Commission. [Adm. Code § A600.3]**

The City Commission is hereby empowered to determine that the whole or any part of the cost of any improvement shall be defrayed by special assessments upon the property specially benefited, and assessments may be levied before, during or after construction.

**§ 32-4. Property owners' petition. [Adm. Code § A600.4]**

The Commission, in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvement to be made, may request and receive a petition therefor, or may receive such a petition voluntarily presented, but in either event, such petition shall be advisory only and shall not be jurisdictional, except in cases where such a petition is specifically made jurisdictional by the statutes of the state. Such petition shall be submitted on forms approved by the City Manager and shall be furnished by the City. The City shall not be required to construct any improvement petitioned for, and the City may proceed to construct an improvement without a petition having been filed or without 51% having signed the petition.

**§ 32-5. Preliminary proceedings. [Adm. Code § A600.5]**

The Commission shall, by resolution, require the City Manager to prepare such maps, diagrams or plans as will indicate the scope of any improvement, any part of the cost of which is to be defrayed by special assessment, and an estimate or tabulation of the cost thereof, and to file the same with the City Clerk, together with his recommendation as to what proportion of the cost should be paid by special assessment and what part, if any, should be borne by the City at large and the land which should be included in the special assessment district. After the report is filed with the Clerk, it shall be presented to the Commission and shall be available for public

§ 32-5 examination. Whenever any land which should be included in the special assessment district may not be assessable for any reason, a written agreement may be reached providing for the payment of the owner's share of the cost of the improvement. Whenever any property is acquired for the purpose of any improvement, the cost thereof and of the proceedings required to acquire such property may be added to the cost of such improvement. § 32-9

**§ 32-6. Commission determination; direction to prepare roll. [Adm. Code § A600.6]**

After the City Manager's report is presented to the Commission pursuant to § 32-5, the Commission may, by resolution, approve the maps, diagrams or plans and the estimate or tabulation of cost; authorize or ratify the improvement; determine the estimated life of such improvement; determine what proportion of such cost shall be paid by special assessment upon the property especially benefited and what part, if any, shall be borne by the City at large; the number of annual installments in which the assessments may be paid; the interest to be charged; designate the district or land and premises upon which special assessments shall be levied; and direct the Assessor to prepare a special assessment roll in accordance with the Commission's determination.

**§ 32-7. Preparation of roll generally. [Adm. Code § A600.8]**

When so directed by the Commission, the City Assessor shall prepare a special assessment roll, including all lots and parcels of land within the special assessment district designated by the Commission, and shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against the special assessment district as shall be proportionate to the benefit to such lot or parcel of land resulting from the improvement. If, by mistake or otherwise, any person shall be improperly designated as the owner of any lot or parcel of land, or if it is assessed without the name of the owner, or in the name of a person other than the owner, such assessment shall not, for any such cause, be vitiated, but shall, in all respects, be as valid upon and against such lot or parcel of land and the true owner as though assessed in the name of the proper owner.

**§ 32-8. Preparation of roll after completion of improvement. [Adm. Code § A600.7]**

Notwithstanding any provisions of this chapter, the City Commission may, in its discretion, delay the preparation of a special assessment roll, together with its determination of the portion of costs to be assessed, the number of installments and land included in the district, until after the completion of the improvement, in which case the actual cost thereof shall be reported to the Commission and a special assessment roll shall then be made, based upon such actual cost pursuant to its determinations.

**§ 32-9. Corner lot formula and assessment line for sewer improvements; payment as prerequisite to sewer connection. [P.S. Code § PS302.5]**

All property adjoining or abutting on any street or alley through which or along which a main sewer shall be built or extended, or in which a main sewer shall be built, shall be assessed for the cost of such improvement as the City Commission shall, by resolution, direct, according to the provisions of the Charter and this chapter; provided that no corner lot having an aggregate frontage of 198 feet or less on streets or alleys shall be assessed on more than half the sum of the frontage on said streets or alleys for lateral and main sewer construction, and no corner lot having a greater aggregate frontage of more than 198 feet in the street or alley shall be assessed for main or lateral sewer construction on a greater number of feet than is obtained by adding the several frontages on the streets and alleys, and deducting 99 feet from the total thereof; and further provided, that a corner lot shall be deemed to be land held under one ownership, without reference to any subdivision as made in plats. Frontage for assessments shall be computed along an assessment line parallel to the street or alley right-of-way line. In zoning districts 7, 7A and 8, the aforementioned assessment line shall be located 25 feet from the street right-of-way line. In zoning districts 5, 5A, 5B and 6, the assessment line shall be located 15 feet from the street right-of-way line. In zoning districts 1 through 4, inclusive, and for purposes of the application of the corner lot formula as hereinbefore described, the assessment line shall coincide with the street right-of-way line.<sup>141</sup> Such assessments or installments due shall

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141. Editor's Note: See App. A, Zoning Ordinance, § 2.1, for current zoning districts.

§ 32-9 be paid in full before a permit shall be issued for connecting said property with a main or lateral sewer, unless otherwise provided by the City Commission. § 32-13

**§ 32-10. Assessment line for street improvements. [P.S. Code § PS301.32(a)]**

All property adjoining or abutting on any street or alley graded, paved or otherwise improved shall be assessed for the cost of such improvement, as the City Commission shall, by resolution, direct, according to the provisions of the Charter and this chapter. Frontage for assessments shall be computed along an assessment line parallel to the street or alley right-of-way line. In zoning districts 7, 7A and 8, the assessment line shall be located 25 feet from the street right-of-way line. In zoning districts 5, 5A and 6, the assessment line shall be located 15 feet from the street right-of-way line. In zoning districts 1 through 4 inclusive, the assessment line shall coincide with the street right-of-way line. Where pavement and curb and gutter have been constructed and/or assessed along one side of a corner lot prior to July 30, 1973, credit for the appropriate frontage differential resulting from use of the aforementioned assessment line shall be given to corner properties in special assessment rolls confirmed after such date.

**§ 32-11. Certification and filing of roll. [Adm. Code § 600.9]**

When the Assessor has completed the assessment roll, he shall attach thereto his certificate to the effect that the roll has been made by him pursuant to a resolution of the City Commission, giving the date thereof, and that, in making the assessment therein, he has, as near as may be and according to his best judgment, conformed in all respects to the directions contained in such resolution and to the Charter and this chapter. Thereupon, the Assessor shall file, in the office of the City Clerk, a copy of the assessment roll and certificate, and it shall be available for public inspection.

**§ 32-12. Fixing time and place for hearing; notice of hearing. [Adm. Code § A600.10]**

Upon receipt of an assessment roll and certificate by the Clerk, the Commission shall fix a time and place when it will meet and review such roll and shall direct the City Clerk to give notice of such hearing. The notice shall specify the time and place of the hearing and shall be sent by the City Clerk, by first-class mail, to each owner of property subject to assessment in accordance with law. Unless otherwise directed by the Commission, the Clerk shall insert a return addressed, postage prepaid response card with such notice, inviting the recipient's comments on the project and assessment and requiring him to sign his name and address thereon. When so directed by the Commission, the Clerk shall also publish the notice.

**§ 32-13. Conduct of hearing; objections to roll; Commission action on roll. [Adm. Code §§ A600.10-A600.12]**

- A. The hearing required by § 32-12 may be held at any regular, adjourned or special meeting of the City Commission, provided the time therefor is specified in the required notice, and such hearing may be adjourned from time to time. At such hearing, all interested persons or parties shall be given an opportunity to be heard. The City Assessor, with a copy of the assessment roll, and the City Manager shall be present at such hearing.
- B. Persons deeming themselves aggrieved by a special assessment roll shall appear at the hearing provided for in this section or shall file their objections thereto in writing with the City Clerk prior to the close of such hearing or any adjournments thereof. Such objections shall specify, in detail, in what respect the objectors deem themselves aggrieved.
- C. At the hearing conducted under this section, the Commission shall review the special assessment roll and shall consider any written objections thereto. The Commission may correct the roll as to any assessment or description of any lot or parcel of land, or other errors appearing therein. Any changes made in such roll shall be noted in the Commission's minutes. After such hearing and review, the Commission may confirm such special assessment roll with such corrections as it may have made, if any, or may refer it back to the Assessor for revisions or may annul it and any proceedings in connection therewith. Upon confirmation of any special assessment roll, the Commission shall determine the due date thereof, the number, if any, of annual

§ 32-13 installments in which it may be paid, not exceeding 20, establish the rate of interest chargeable on the unpaid balance from and after the due date, and establish penalties for late payment. Where installment payment is permitted, the Commission may establish a collection fee not exceeding 5% of the unpaid balance to compensate for the accounting services required. The Clerk shall endorse the date of confirmation on each special assessment roll. § 32-17

**§ 32-14. Assessments as lien. [Adm. Code § A600.13]**

All special assessments contained in any special assessment roll shall, from the date of confirmation of such roll, constitute a lien upon the respective lots or parcels of land assessed and, until paid, shall be a charge against the respective owners of the several lots and parcels of land. Such lien shall be of the same character and effect as the lien created for City taxes and shall include accrued interest, collection fees and penalties. No judgment or decree, nor any act of the Commission vacating a special assessment, shall destroy or impair the lien of the City upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

**§ 32-15. Collection. [Adm. Code §§ A600.15, A600.16, A600.20]**

- A. The special assessment roll shall be transmitted by the Clerk to the Treasurer for collection, immediately after its confirmation. The Treasurer shall divide the assessments into installments, when so ordered by the Commission; provided that, if such division operates to make any installment less than \$10, then the Treasurer shall reduce the number of installments so that each installment shall be above and as near \$10 as possible. The Treasurer shall mail statements of the several assessments to the respective owners, as indicated by the roll and the records of the Treasurer of the several parcels of land assessed, stating the amount of the assessment and the manner in which it may be paid; provided, however, that failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.
- B. The Treasurer shall be charged with collecting all special assessments. After an assessment or any installment becomes delinquent, he may add the entire assessment, with any interest, collection fee or penalty, to the annual tax bill of the City attributable to the lot or premises involved, or he may collect it separately by the tax sale procedure provided in the Charter.
- C. In addition to any other remedies and without impairing the lien therefor, any delinquent special assessment, together with interest, collection fees and penalties, may be collected in an action at law in the name of the City against the person assessed or liable for the same, in any court having jurisdiction thereof. If in any such action it shall appear that, by reason of any irregularities or informalities, the assessment has not been properly made against the defendant or upon the premises sought to be charged, the court may, nevertheless, on satisfactory proof that expense has been incurred by the City, which is a proper charge against the defendant or the premises in question, render judgment for the amount properly chargeable against such defendant or upon such premises.

**§ 32-16. Deficiency assessments and refunds. [Adm. Code § A600.18]**

Should the assessments in any special assessment roll prove insufficient for any reason to pay the assessed portion of the cost of the improvement, the Commission may make additional assessments against the several lots and parcels of land within the special assessment district to supply the deficiency, or the Commission may determine that such deficiency shall be paid in part by the City. Should the assessments levied prove to be more than necessary to defray costs of the improvements, the Commission may, by resolution, order the excess, if less than 5% of the total project costs, to be transferred to the general fund, but if more than such amount, the whole excess shall be refunded to the then owners of the premises involved, as their names appear upon the City tax rolls. The excess shall be determined within one year following the completion of construction and refunds shall first be applied as payments upon unpaid installments in the inverse order of the due dates thereof.



**§ 32-17. Reassessment in event of illegality. [Adm. Code § A600.19]**

Whenever any special assessment shall, in the opinion of the Commission, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Commission shall, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for in the original assessment, and whenever the assessment, or any part thereof, levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment and the reassessment shall, to that extent, be deemed satisfied.

**§ 32-18. Division or combination of lots after assessment confirmed. [Adm. Code § A600.17]**

Should any parcels of land be divided or combined after a special assessment thereon has been confirmed, and before the assessment has been fully paid, the Assessor shall, as promptly as possible, apportion the uncollected amounts upon the several descriptions so divided or combined and report the same to the City Commission. Such report, as an amendment of the original lien, when confirmed by the City Commission, shall be conclusive upon all parties and parcels, and all assessments thereafter made upon such land shall be according to such new description.

**§ 32-19. Single-lot assessments. [Adm. Code § A600.14]**

When any expense shall have been incurred by the City upon or in respect to any single premises, which expense is chargeable against such premises and the owner thereof under the provisions of the Charter or any ordinance of the City or law of the state, and is not of the class required to be prorated among several lots and parcels of land in a special assessment district, an account of the costs or the labor, material or services for which such expense was incurred, verified by the City Manager, with a description of the lot and the name of the owner, if known, shall be reported to the City Treasurer, who shall immediately charge and bill the owner, if known. Such bill shall be sent by first-class mail to the owner of the property to be assessed and such bill shall notify such owner of the time of the meeting of the Commission, not sooner than 10 days thereafter, when the Commission will meet for the purpose of adopting a resolution confirming a special assessment upon such property for such charges, unless the same are paid prior to the date of such meeting. Upon adoption of such resolution, the Commission may establish a due date, authorize installment payments, and establish interest collection fees and penalties for late payment as provided for in this chapter. Immediately after the adoption of such resolution, the Treasurer shall give notice of the amount so determined to the several persons chargeable therewith. Such notice shall be sent by first-class mail to the last known addresses of such persons as shown on the assessment roll of the City, or by publication. Such notice shall state the basis of the assessment and the amount thereof, and shall give a reasonable time, not less than 15 days, within which payment shall be made to the Treasurer. In all cases where payment is not made within the time set, the assessment shall become collectible as any special assessment. The resolution referred to in this section shall be treated as the confirmation of a special assessment roll.



**Chapter 33**

**STREETS AND OTHER PUBLIC GROUNDS**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section and article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Posting advertising matter on City property — See § 3-1.**

**Deposit of advertising matter on streets — See § 3-6.**

**Auctions prohibited on streets and other public property — See § 8-3.**

**Moving buildings on streets — See § 9-252 et seq.**

**Open burning — See § 15-41.**

**Kalamazoo Mall — See Ch. 19.**

**Parades exempt from noise ordinance — See § 21-4.**

**Damaging public property generally — See § 22-6.**

**Littering — See § 22-10.**

**Impeding pedestrian or vehicular passage — See § 22-19.**

**Peddlers, solicitors, transient merchants and photographers — See Ch. 25.**

**Railroads — See Ch. 27.**

**Solid waste — See Ch. 31.**

**Special assessments for public improvements — See Ch. 32.**

**Establishment of pedestrian, special event or play street — See § 36-16.**

**Use of skis, toboggans or sleds on streets — See § 36-17.**

**Use of skates and toy vehicles on roadway — See § 36-18.**

**Clinging to vehicles — See § 36-19.**

**Provisions of Traffic Code relative to tires — See § 36-68.**

**Provisions of Traffic Code relative to protection of pavement from oil drip or overflow — See § 36-83.**

**Tampering with traffic control devices — See § 36-150.**

**Cable communications regulations — See Ch. 44.**

**Telecommunications — See Ch. 45.**

**Signs — See App. A, Ch. 7.**

**Design standards for streets and alleys in subdivisions — See App. B, §§ 4.00, 4.20.**



**STATUTORY REFERENCES**

**Authority of City to regulate processions — See MCLA § 257.606.**





**ARTICLE I  
In General**

**§ 33-1. Names of certain streets changed. [Adm. Code §§ A103.1-A103.3]**

The names of the streets hereinafter set out shall be changed as follows:

<b>Former Name</b>	<b>New Name</b>	<b>Effective Date</b>
Ada Street, between Cobb Avenue and Staples Avenue	Nola Street	3-25-1957
Adams Street (Sec. 34)	Albany Street	2-15-1962
Alcott Court	West Alcott Street	3-25-1957
Bronson Court	Sally's Court	3-25-1957
Buena Vista Street (Sec. 29), from Parkview Avenue to its northern terminus	Vista	1-1-1966
Burrell Place	Lawrence Street	3-25-1957
Cambridge Road	Dover Road	3-25-1957
Carlton Court	Cadillac Street	3-25-1957
Cherry Avenue	Redwood Avenue	3-25-1957
Colon Farm Road and 12th Street, along the west boundary of the City, from Parkview Avenue northward to the north City limits	Drake Road	7-1-1974
Crawford Court	Hickory Court	3-25-1957
Crest Street (Sec. 17)	Lawn Drive	2-15-1962
Edgewood Place	Westchester Lane	3-25-1957
Elm Place (Sec. 16, only that portion of Elm Place lying west of Kalamazoo-Michigan Avenue connector)	Creek Street	1-1-1966
Emerald Drive (Sec. 35 and 36, 3 noncontinuous loop streets from Cork Street to its southern terminus)	Pennway Street	6-1-1965
Field Court	Fenwick Place	3-25-1957
Fisher Court	Federal Court	3-25-1957
Fletcher Place	Skinner Drive	3-25-1957
Franklin Circle	Franklin Street	3-25-1957
Fredrick Place	Evergreen Drive	3-25-1957
Garfield Court	Vandersalm Court	3-25-1957
Gibson Street	Cameron Street	3-25-1957
Glen Road	Peake Road	3-25-1957
Glenwood Avenue	Knollwood Avenue	3-25-1957
Grand Prairie Street	Alamo Avenue	3-21-66

<b>Former Name</b>	<b>New Name</b>	<b>Effective Date</b>
Hillandale Drive South (Sec. 33, extending from Hallandale Drive East to Lakeside Drive)	White Oak Drive	3-25-1957
Hawley Court	Hawley Street	3-25-1957
King Avenue	Kent Avenue	3-25-1957
Lookout Street	LaRue Street	3-25-1957
Madison Avenue	Sutherland Avenue	3-25-1957
Melrose Street	Lay Boulevard	3-25-1957
Michigan Avenue (Lovell to South)	Oakland Drive	8-11-1958
Morgan Avenue	Farrell Avenue	3-25-1957
Nelson Court	Stetson Court	3-25-1957
Norwood Avenue (Sec. 29 from Parkway Avenue to its northern terminus)	Broadway Street	6-1-1965
Parker Street	Pioneer Street	5-6-1957
Penndel Street (Sec. 36 from Cork Street to its southern terminus)	Emerald Drive	6-1-1965
Stearns Avenue	Buckingham Avenue	3-25-1957
Sunnydale Avenue (Hill'N'Brook Plat)	Edgecliff Lane	2-24-1958
Thomas Avenue	Centerridge Road	2-24-1958
Upjohn Court	Patterson Court	3-25-1957
Vande Giessen Road (South of U.S. 12)	Waite Avenue	5-6-1957
Unnamed (U.S. 12-Lovell to South)	Michigan Avenue	8-11-1958
Unnamed access street to Milwood Jr. High (Miller Road south to Cambridge Drive)	Balkema Street	8-11-1958
Unnamed street providing access from Michigan Avenue to Elm Street	Elm Crossover	1-1-1966
Unnamed street extending from Intersection of Kalamazoo Avenue and Westnedge Avenue to intersection of West Main Street and Michigan Avenue	Michikal Road	1-1-1966
Unnamed (Section P-2, an east-west street located between Portage Road and the airport parking area)	Airport Drive	6-3-1971

**§ 33-2. Street and sidewalk obstructions generally. [P&L Code § PL813]**

It shall be unlawful for any person to place, or suffer to be placed, any sign, structure, wire, encumbrance, encroachment, merchandise or obstruction upon, in or over any street or alley, or upon or over any sidewalk or crosswalk in the City, which shall in any manner impede, obstruct or prevent full, clear and free passage over the entire width of such street, alley, sidewalk or crosswalk. This section shall not apply to the use of any street, sidewalk, crosswalk or alley in accord with the provisions of any license or permit issued by the City for such use.

**§ 33-3. Erection of fences or other barricades in streets or alleys. [P&L Code § PL714; amended 11-3-2003]**

§ 33-3  
**by Ord. No. 1761]**

§ 33-8

It shall be unlawful for any person to construct, place, build or maintain, or cause to be constructed, placed, built or maintained, any fence, railing, wire or barrier of any name or nature, on any portion of any street or alley of the City, without having first obtained the written approval of the City Manager or his/her designee.

**§ 33-4. Assemblies interfering with free passage on streets. [P&L Code § PL718]**

It shall be unlawful for any person or persons to make any public address, beat drums, blow horns or assemble or gather for speaking, shouting, singing or playing of instruments in such a manner as to cause interference with the free passage of persons and vehicles on any public street in the City. This section shall not apply to parades and gatherings conducted in accord with a permit issued under § 33-5.

**§ 33-5. Permits for parades or gatherings. [P&L Code § PL717; amended 11-3-2003 by Ord. No. 1761]**

- A. No person or group of persons shall use any of the streets, alleys or public grounds in the City for the purpose of a special event, including special events at which food, drink, or merchandise is sold; or for a parade, march or gathering without first obtaining a permit so to do from the City. Application for an event shall be filed with the City Clerk, in writing, stating the time when and place where it is proposed to march or parade, or the public grounds intended to be occupied. Upon the filing of such application, a permit may be granted by the City Manager, or his/her designee; provided that, in the event that the place where it is proposed to march or parade includes any portion of a U.S. highway or state trunk line highway, the person or persons desiring the use of such highway must also obtain a permit from the state highway department, and without such permit from the state highway department, they shall be refused the use of any portion of such U.S. highway or state trunk line highway for the purpose of a parade, march or gathering. Any person who shall hold any parade or gathering without complying with this section shall be deemed guilty of a misdemeanor.
- B. Any applicant for a permit for an event which has been denied by the City Manager, or his/her designee, may appeal the denial to the City Commission, provided that such appeal is filed in writing with the City Clerk's Office within 10 days of notification of the denial, and provided further that said appeal is filed no later than 21 days before the requested date of the event. The City Commission may adopt a resolution governing rules for such appeals.

**§ 33-5.1. Block parties. [Added 3-28-1988 by Ord. No. 1437]**

The City Manager may approve temporary closings of portions of streets, designated as local streets, for the purpose of neighborhood gatherings or block parties under such conditions as the City Commission may from time to time require. Permission to hold such block parties shall be requested by making written application to the City Clerk.

**§ 33-6. Iron gratings or lights on sidewalks or crosswalks. [P.S. Code § PS301.3417]**

No open iron gratings or sidewalk lights shall be placed in any sidewalk or crosswalk on any street, alley or other public place.

**§ 33-7. Occupancy of space under streets and sidewalks generally. [P.S. Code § PS301.3417]**

No space under the surface of any sidewalk, street, alley or other public place may be occupied by any person; provided, however, that the City Commission may grant permission, by resolution, to occupy such space, under those specifications and regulations prescribed in such resolution. This section shall not apply to the occupancy and use of such space specifically authorized by other provisions of this article or other ordinance.

**§ 33-8. Coal holes and manhole covers in sidewalks. [P.S. Code § PS301.3417]**

No coal hole, manhole cover, doorway or other opening shall be placed in any sidewalk on any street, alley or other public place in the City, without having first obtained permission to do so from the Department of Public Works.

**§ 33-9. Use of elevator opening on street or other public place. [P. & L. Code § PL722]**

It shall be unlawful for any person to use any elevator opening upon any sidewalk, alley, street or other public place in the City, unless a person is stationed at the opening of such elevator to warn and give notice of such use to other persons using the sidewalk, alley, street or public place.

**§ 33-10. Pouring or spilling oil on pavement. [P. & L. Code § PL701]**

It shall be unlawful for any person to pour or spill or permit to drip, upon any pavement laid on any street, alley or public place in the City, any kerosene, benzine or other similar oil or oily substance or liquid.

**§ 33-11. Fires on pavements.<sup>142</sup> [P. & L. Code § PL704]**

It shall be unlawful for any person to burn or cause to be burned, on any of the paved streets of the City, any leaves, dead grass or other substances, or to build or cause to be built any bonfires on any such street.

**§ 33-12. Moving steam boilers, traction engines or other heavy objects on paved street or alley. [P. & L. Code §§ PL711, PL712]**

It shall be unlawful for any person to move, propel, or cause to be moved or propelled, any steam boiler, traction engine or other heavy object into, along or over any paved street or alley, without written permission first being obtained from the City Engineer, designating the route to be used. No steam boiler, traction engine or other heavy object shall be moved or propelled into, along or across any paved street or alley, unless the wheels under the same are so guarded as to prevent such wheels from cutting, breaking or injuring the pavement. In the event such traction engine or other heavy object is propelled on corrugated wheels, equipped with lugs or studs, the City Engineer shall designate the method to be used to protect the pavement.

**§ 33-13. Draining water or other fluids into streets. [P. & L. Code § PL707]**

It shall be unlawful for any person to drain, from any building or premises owned or occupied by him, by means of pipes or any other device whatever, water or any other fluids to and upon any portion of the public streets of the City.

**§ 33-14. Deposit of injurious matter on streets and sidewalks. [P. & L. Code § PL710]**

It shall be unlawful for any person to place, distribute or deposit, or cause to be placed, distributed or deposited, in or upon any public street, alley, sidewalk or public place within the City limits, or in or upon any public or private driveway therein, any tacks, nails, glass or other substance or material whatsoever, having a necessary or direct tendency to injure the tires of any automobile, bicycle or other vehicle.

**§ 33-15. Damaging or removing sidewalks, crosswalks or driveways. [P.S. Code § 301.3416]**

No person shall injure or destroy any sidewalk, crosswalk or driveway on any street, alley or other public place in the City, in any way or by any means. No person shall remove any sidewalk, crosswalk or driveway on any street, alley or other public place in the City, without first having obtained permission to do so from the Department of Public Works.

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<sup>142</sup>Editor's Note: See § 15-41 for provisions related to open burning.

§ 33-16

**§ 33-16. Removal of street warning barriers, signals, etc. [P. & L. Code § PL715]**

§ 33-20

It shall be unlawful for any person to take down or remove any fence, barrier or signal, extinguish any light or remove or deface any sign used as a signal, where such fence, barrier, signal, light or sign has been placed in or adjacent to any public street or alley to warn persons of a place of danger or to protect them from injury until work lawfully being done is completed.

**§ 33-17. Responsibility for maintenance of parkways. [P.S. Code § PS301.5]**

- A. For the purposes of this section, a "parkway" is that portion of a City street consisting of a strip of land lying either in the middle of the street between the travel lanes or along the side of the street between the travel lane (gutter, if present) and the sidewalk, or the property line, if there is no sidewalk, intended to be kept as a park-like space.
- B. It shall be the duty of the Director of Parks and Recreation to maintain parkways located in the middle of streets.
- C. It shall be the duty of all owners or occupants of premises to maintain any parkway located along the street in front of or adjacent to such premises in a good and park-like condition which shall, in all instances, be at least equal to the standard maintained throughout the neighborhood.

**§ 33-18. Owners or occupants of adjacent property not to permit snow, ice or rubbish to remain on sidewalks or alleys. [P. & L. Code § PL707; amended 4-6-1994 by Ord. No. 1573; 5-7-2018 by Ord. No. 1964]**

- A. The owner or occupant of any property within the City shall remove any accumulation of snow or rubbish from the public sidewalk adjacent, abutting, or adjoining such property within 48 hours of its accumulation or placement on said public sidewalk.
- B. The owner or occupant of any property within the City shall remove any accumulation of ice or otherwise make safe by the application of sand, salt, sawdust, or similar material in such manner and quantity to prevent it from being slippery from the public sidewalk adjacent, abutting, or adjoining such property within 12 hours of its accumulation and thereafter remove such ice as soon as practicable.
- C. Any person in violation of this section shall be responsible for a municipal civil infraction and subject to a fine of \$50 for a first offense, \$100 for a second offense committed within six months of a first offense, and \$200 for a third or subsequent offense committed within six months of a first offense, and any costs imposed by the court.

**§ 33-19. Deposit of snow on streets and sidewalks. [P. & L. Code § PL708; amended 5-7-2018 by Ord. No. 1964]**

- A. It shall be unlawful for any person to deposit or cause to be deposited any accumulation of snow or ice from roofs of buildings, publicly or privately owned parking lots, drive-in service places and other off-street areas, upon any street, alley, sidewalk or crosswalk. Snow naturally falling on a public right-of-way may be deposited in the area between the curb and sidewalk.
- B. A person in violation of this section shall be responsible for a municipal civil infraction and subject to a fine of \$100, and any costs imposed by the court.

**§ 33-20. Removal of snow and other obstructions by City at expense of owner or occupant of adjacent property. [P&L Code § PL709; amended 5-7-2018 by Ord. No. 1964]**

- A. If any occupant or owner shall neglect or fail to remove ice, snow or rubbish from the public sidewalk adjacent, abutting or adjoining his/her property within the time allowed or shall otherwise permit ice, snow or rubbish to accumulate on such public sidewalk, the City Manager or the designee of the City Manager may

§ 33-20 cause the ice, snow or rubbish to be cleared at the expense of such occupant or owner. The expense of removal and its associated administrative fee shall become a debt owed to the City from the occupant or owner of such property and shall be collected as any other debt to the City, and if not paid within 30 days after billing, shall become a lien in favor of the City against the said benefited property. The lien shall be assessed the same as real property taxes are assessed and levied. § 33-22

B. Property owners and occupants will be given notice of §§ 33-18 through 33-20 in November of each year through a public posting in a public newspaper of general circulation in the City and on the webpage maintained by the City. These will be the only required public notices given for §§ 33-18 through 33-20.

**§ 33-21. References in chapter. [Added 9-7-1982 by Ord. No. 1268]**

All references in this chapter to the "Department of Public Works" shall mean the "Department of Public Services." All references to the "Director of Public Works" shall mean the "Director of Public Services or his or her designee."

**§ 33-22. Skateboards, roller skates, scooters and similar devices. [Added 9-19-1988 by Ord. No. 1446; amended 4-16-2001 by Ord. No. 1720]**

- A. No person shall use any skateboard, roller skates, scooter, or similar contrivance for any purpose:
- (1) On any state trunk line highway or designated major street within the City, as established or designated pursuant to Public Act 51 of 1951, being MCLA § 247.651 et seq. (Map is available for inspection in the office of the City Clerk).
  - (2) In any publicly owned or operated parking lot or ramp within the City.
  - (3) Notwithstanding any other provision of this chapter, no person shall use any skateboard, rollerblades, roller skates, scooters, ride bicycles or any other similar contrivance at any time in Bronson Park, or any sidewalks adjacent to Bronson Park, except that sworn personnel of the Kalamazoo Department of Public Safety may ride bicycles in Bronson Park in the course of their job duties. All other citizens must walk bicycles through Bronson Park and on adjacent sidewalks.
  - (4) On any walkway, street, plaza, sidewalk, park or other publicly owned or leased property within the area bounded on the north by the north right-of-way line of Water Street; on the west by the west right-of-way line of Park Street; on the south by the south right-of-way line of Lovell Street; and on the east by the east right-of-way line of Pitcher Street, except such uses shall be permitted between the hours of 7:00 p.m. and 7:00 a.m., Monday through Friday, and between the hours of 12:00 noon and 7:00 a.m. on Saturday, Sunday and holidays. (See map in the office of the City Clerk).
- B. Any person who shall use a skateboard, roller skates, scooter or other similar contrivance on any street where permitted within the City shall not hinder or impede the passage of pedestrians or vehicles.
- C. Any person who shall use a skateboard, roller skates, or scooter or other similar contrivance on a sidewalk, walkway or other pedestrian facility where permitted within the City shall yield the right-of-way to all pedestrians upon said sidewalk, walkway or other pedestrian facility.
- D. No person shall ride on or in any manner use any skateboard, roller skates, scooter or similar contrivance which is being towed by any vehicle, bicycle or pedal-powered contrivance within the City.
- E. Any person who shall violate this section shall be responsible for a civil infraction, as defined by RJA § 113, being MCLA § 600.113, for which a civil fine not to exceed \$100 may be imposed, except that a fine of not less than \$50 shall be imposed for a first finding of responsibility under Subsection A(3) of this section. For any violation of Subsection A(3) of this section occurring within one year of a previous finding of responsibility of that section, the fine imposed responsibility shall be at least twice the amount of the fine imposed for the previous finding of responsibility, except that no fine shall exceed \$500.

ARTICLE II  
**Parks and Recreation**  
**[Adopted 5-7-2018 by Ord. No. 1964<sup>143</sup>]**

**§ 33-23. Definitions.**<sup>144</sup>

As used in this article, the following terms shall have the meanings indicated:

**CITY PARKS** — Any public park, playground, or beach within the City which is owned or operated by the City or the City Building Authority that is open to the public.

**SPECIAL EVENT** — Any public gathering that the City of Kalamazoo designates as a special event to celebrate, honor, educate, or observe human endeavors and/or holidays. These events generally last a few hours to a few days. The City of Kalamazoo shall provide advance notice of these special events, and that notice shall have the designation of special event.

**§ 33-24. City parks/public spaces.**

The following applies to all City parks:

- A. No person shall enter into, remain in, or use any park at which hours of operation are restricted except during the park's posted hours of operation; nor may a person engage in activities that are prohibited by posted rules.
- B. In those parks that are open to the public during nighttime hours, no sleeping is permitted between the hours of 9:00 p.m. and 7:00 a.m.
- C. Fishing is not permitted in any park except where specifically designated at Spring Valley Park, Mayors' Riverfront Park, Rose Park, Verburg Park, Milham Park, Blanche Hill Preserve, and Woods Lake Beach Park. **[Amended 6-21-2022 by Ord. No. 2050]**
- D. The operation and the parking of motor vehicles is permitted only on approved surfaces, or in areas specifically designated for the operation and/or parking of motor vehicles, unless otherwise approved by the City. Any vehicle parked in violation of this subsection may be issued a civil parking citation, and, in the City's sole discretion, may be towed and impounded at the owner's sole expense.
- E. Camping in any park is prohibited without written permission of the City.
- F. No person shall pick, damage, or remove any flora, whether wild or domesticated, in any park, dig or move soil, or cut or remove a tree or any part of a tree at any park without permission of the City. The spraying, defacing, or painting of any tree, building, or any other portion of any park is prohibited.
- G. Swimming or wading is prohibited except at Kik Pool and Woods Lake Beach Park during designated hours.
- H. Bicycles, skateboards, scooters, and other similar contrivances may be operated only on surfaces designated for use by motor vehicles or on designated bicycle paths or skateboard areas. Bicycles must be walked through Bronson Park. No bicycles are permitted in Blanche Hull Park, except on bike trailways that are identified as such by posted signs.
- I. Leashing of dogs.
  - (1) All dogs must be securely held and controlled on a leash no longer than six feet in length, except in such areas as the City may post and identify by appropriate signs as permitting dogs to be at large. Under no circumstances, however, shall a person allow a dog (other than a service dog), on or off a leash, to be

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**143. Editor's Note:** This ordinance also provided for the renumbering of former Articles II through VI as Articles III through VII, respectively.

**144. Editor's Note:** Former § 33-23, City parks/public spaces, added 11-4-2002 by Ord. No. 1748, as amended, was repealed 5-7-2018 by Ord. No. 1964. See now § 33-24.

§ 33-24

§ 33-25

upon the sandy beach near, or in the water at, the public swimming area at the Woods Lake Park or upon the golf course at Milham Park at any time of year.

- (2) This subsection shall not apply to City parks that are a designated dog park. Dog owners must, however, abide by the specific rules posted in the dog parks.
- J. All dog owners and those in control of any dog shall immediately pick up any fecal matter deposited in any park and dispose of it in a proper receptacle.
- K. No person shall build or maintain a fire in any park except in a City-provided grill or in grills brought to the park by the user. Where permitted, grills shall be used only for the preparation of food, shall never be placed upon a picnic table, and shall be elevated such that the bottom of the grill is no less the 25 inches above the ground. Under no circumstances shall a person build or maintain a fire, in a grill or otherwise, in Bronson Park or on the grounds adjacent to City Hall unless specially permitted in writing by the City.
- L. No person shall set up a tent, or awning, or similar structures that are held up by stakes or similar devices without written approval from the City.
- M. Sleeping or lying down to rest is not permitted at any time on a paved or otherwise improved surface, including stages or other elevated areas.
- N. No person shall consume or possess alcoholic beverages in a park except during events where such possession or consumption is expressly permitted by the City.
- O. No person shall wash clothing or other objects in or under park fountains, drinking fountains, faucets, spigots, pools, lakes, rivers or creeks within a park.
- P. No person shall use an electrical outlet found within a park unless such use is expressly authorized by the City.
- Q. Park equipment, fixtures, and other objects found within parks shall be used only for their intended purpose.
- R. Areas that are publicly posted to be used for only specified uses shall be used only for said uses.
- S. A Public Safety Officer may require any person violating this article or any other City ordinance to leave any park for the balance of that day. A person who refuses to leave after being requested to do by a Public Safety Officer may be charged with and/or arrested for trespassing.
- T. No person shall smoke in an area or at an event that is posted or otherwise designated as being smoke-free.
- U. No person shall interfere with an event or activity, public or private, that has been specially permitted in writing by the City.
- V. No person shall charge or receive money or other consideration for admission into, activities in, or commodities of any type sold in, a park, unless specially permitted in writing by the City.
- W. Unless otherwise specified, a violation of any of the above provisions shall be a misdemeanor.
- X. The fact that areas that are not formally dedicated parks are treated herein as if parks for this section does not otherwise change the designation of said areas, nor make such areas a City park.
- Y. In the event a person is convicted of a violation of any provision of this section, or if a person is otherwise convicted of causing damage to any park, the court shall, as part of any sentence imposed for such an offense, require that the defendant pay full restitution to the City for any expenses incurred by the City as a result of the violation and further may, as a term of probation, prohibit the person for a period of not more than one year from entering into or using one or more specified parks. The court shall liberally construe this provision in order to make the City whole.



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**§ 33-25. Alcohol restrictions; exceptions.**

No person shall consume, possess, or bring any beer, wine, liquor, malt or any other alcoholic beverage into a City park. Anyone who violates this section shall be guilty of a misdemeanor punishable by up to 90 days in jail and/or a maximum fine of \$500, except for the following two exceptions:

- A. The Director of Parks and Recreation may, for the duration of a special event, designate that beer, wine and liquor may be carried in, possessed and consumed in City parks in a container(s) not more than 72 ounces. During a designated special event alcoholic beverages may only be consumed within the designated City park location. Only sealed, unopened containers of beer, wine and liquor may be transported to and from the City park before and after the special event.
- B. Alcoholic liquor may be sold, possessed and/or consumed in a City park during the period of a special license with the specific approval of the City Clerk and in conformance with the conditions of such approval and the condition of a special license granted by the Michigan Liquor Control Commission.
- C. Alcoholic liquor and beverages sold by approved licensed establishments may be possessed and consumed in public spaces and City parks if the City Commission has designated such areas as social district commons areas by resolution as permitted by Public Act 124 of 2020. **[Added 12-21-2020 by Ord. No. 2020]**

**§ 33-26. Operation of motorboats on certain lakes prohibited.**

- A. Consistent with the pertinent rules of the State Department of Natural Resources, the operation of a motorboat on the waters of the following lakes, or portions thereof, located within the City, is prohibited:
  - (1) Whites Lake, Section 30, Township 2 South, Range 11 West.
  - (2) Lake Hill-n-Brook, Section 31, Township 2 South, Range 11 West.

**§ 33-27. Dates and hours of operation of City parks.**

Any City park in which the dates and hours of operation are restricted shall have said dates and hours of operation posted at each vehicular entrance to such City park or at such other place within the City park as designated by the City Manager.

**§ 33-28. High-speed boating — Woods Lake.**

- A. On the waters of Woods Lake (southeast quarter of Section 29, Town 2 South, Range 11 West, City of Kalamazoo, County of Kalamazoo, State of Michigan), it shall be unlawful for the operator of any vessel to operate said vessel at a high speed, which is defined (by PA 303 1967, Marine Safety Act) to mean a speed at or above which a vessel reaches a planing condition.
- B. The City shall place signs in or near the waters of Woods Lake which advise the public of said prohibition against high-speed boating.

**§ 33-29. through § 33-32. (Reserved)**



## ARTICLE III

**Construction and Repair of Sidewalks, Crosswalks and Driveways****§ 33-33. Compliance with article and rules and regulations of Department of Public Services. [P.S. Code § PS301.343]**

All sidewalks, crosswalks or driveways constructed on any street, alley or other public place within the limits of the City shall be laid or constructed as required by this article and any other applicable ordinance of the City and by the rules and specifications adopted by the Department of Public Services and approved by the City Commission.

**§ 33-34. Construction permit and bond. [P.S. Code §§ PS301.342B, PS301.344; amended 10-29-1979 by Ord. No. 1176; 5-27-1980 by Ord. No. 1205]**

- A. No person shall construct any sidewalk, crosswalk or driveway on any street, alley or other public place, without first obtaining a permit so to do from the Department of Public Services. The application for such permit shall specify the street and number where the same is to be constructed.
- B. No permit required by this section shall be issued unless the applicant has on file with the Department of Public Services a duly executed bond, running to the City, with a bonding company operating under the laws of the State of Michigan as a surety thereon, and approved by the City Attorney. Such bond shall be in the sum of \$5,000 and shall be conditioned that all sidewalks, crosswalks and driveways on any public street, alley or public place constructed by him shall be constructed as required by this article and any other ordinance of the City and by the specifications of the Department of Public Services.
- C. The City Clerk shall transfer all bonds in his custody to the Department of Public Services.
- D. Insurance. (This paragraph is reserved for future use).

**§ 33-35. Location and width of sidewalks. [P.S. Code § PS301.343]**

Sidewalks shall be laid with the inside edge of the walk coincident with the line of the property adjacent to the street and shall be of a minimum width of five feet on all streets of a width of three rods or greater, unless otherwise specifically permitted by the City Commission. On streets less than three rods in width, the sidewalk shall be built of a width established by the Department of Public Services in accordance with the rules and specifications adopted by that Department and approved by the City Commission.

**§ 33-36. Construction of new sidewalks by City.<sup>145</sup> [P.S. Code §§ PS301.347, PS301.349]**

- A. The construction and financing of new sidewalks shall be subject to the procedures and powers of the City applicable to other public or local improvements. The cost thereof may be assessed against adjoining or benefited property.
- B. Upon the receipt by the City Commission of a petition or other request for the construction of a new sidewalk, the City Manager shall cause estimates of cost and a special assessment roll therefor to be prepared. The City Commission may elect to hold a hearing as to the necessity for such construction, giving notice of such hearing by regular mail to adjoining or benefited owners who may later be assessed for the cost thereof, and likewise may notify any other affected persons or groups. Such hearings shall not be deemed jurisdictional nor shall they affect the validity of any assessment procedure later undertaken by the City. Upon determination by the City Commission that the sidewalk is necessary, or upon confirmation of the assessment roll therefor, the Department of Public Works shall proceed with the construction.

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<sup>145</sup>Editor's Note: See also Ch. 32, Special Assessments for Public Improvements.

**§ 33-37. Private construction of new sidewalks. [P.S. Code § PS301.348]**

Notwithstanding any other provision of this article, the owners or occupiers of adjoining or benefited property may arrange for the construction of new sidewalks by a duly bonded sidewalk builder, who in turn shall secure the necessary permit therefor, prior to commencing such work, as required by § 33-34. No private installation of a new sidewalk may be made for which assessment rolls have been presented to the City Commission and are under its consideration, or where special assessment rolls therefor have been confirmed, or where the City Commission may otherwise have determined that the sidewalk shall be constructed by the City.

**§ 33-38. Repair or replacement of sidewalks. [P.S. Code §§ PS301.346, PS301.3410—PS301.3412, PS301.3415]**

- A. It shall be the duty of all owners or occupants of premises within the corporate limits of the City to keep all cement sidewalks, which have been heretofore laid or which may be hereafter laid, in front of or adjacent to such premises, in and along any of the streets and alleys of the City, in good repair. Any owner or occupant of any such premises who shall allow any such sidewalk to remain out of repair, or in dangerous condition, without properly barricading the same, shall be deemed responsible for a municipal civil infraction. **[Amended 5-7-2018 by Ord. No. 1964]**
- B. Whenever the City Commission shall find that an existing sidewalk is hazardous, breaking up or deteriorated, it may proceed as herein provided. It shall adopt a resolution identifying the sidewalk so found, require the replacement or repair thereof as a public necessity, and direct that the adjoining owner or occupier promptly replace or repair the sidewalk within a specified period of time. Upon the expiration of the time limited therein for the replacement or repair of such sidewalk, if the same has not been done, the Department of Public Works shall proceed to install such replacement or repairs and the City may assess the cost of such work against the adjoining or benefited property.
- C. The resolution referred to in Subsection B shall be served, by registered or certified mail or in person, upon the owner or occupier of the adjoining property and shall be in substantially the following form:

City of Kalamazoo, Michigan  
Resolution and Notice for Sidewalk Replacement or Repair

RESOLVED that the City Commission of the City of Kalamazoo hereby finds that the sidewalk in front of the premises located at \_\_\_ consisting of \_ linear feet or \_ square feet owned or occupied by \_ is hazardous, breaking up, or deteriorated, that it requires the replacement or repair of said sidewalk as a public necessity, and that it directs the above named owner or occupier to promptly replace/repair said sidewalk within \_\_\_\_\_ days after service of this notice upon said owner or occupier.

FURTHER RESOLVED, that within said period said owner or occupier shall either (1) arrange for the private performance of said work, notify the Department of Public Works of the City as to the name of the bonded sidewalk builder engaged to do the work, the date when it will be done and obtain the permit therefor, or (2) notify the Department of Public Works that the owner or occupier requests the City to arrange for the performance of the work and to bill the reasonable and assessable costs thereof.

FURTHER RESOLVED, that a certified copy of this Resolution shall be served by the City Clerk by certified or registered mail or in person upon the owner or occupier above named.

FURTHER RESOLVED, that a copy of this Resolution shall be filed with the Department of Public Works together with a notation of the date, time and manner of service thereof upon the owner or occupier, and if said sidewalk replacement or repair is not satisfactorily performed or arranged within the required period, said Department shall proceed without delay to perform the work and to report the reasonable cost thereof to the City auditor who is hereby authorized and directed to collect said sum from the owner or occupier named. Said sum shall be collectible against the adjoining owner or occupier by civil suit, assessment against the benefited property, or such other means as may be proper for the collection of debts by legal process.

Certificate

I hereby certify that the above resolution and notice was duly adopted by the City Commission of the City of Kalamazoo at its meeting held on the \_\_\_\_\_ day of \_\_, \_\_

\_\_\_\_\_  
City Clerk

Proof of Service

State of Michigan )

County of ) SS:  
Kalamazoo

The undersigned, being duly sworn, deposes and says that on the \_\_\_\_\_ day of \_\_, \_\_\_\_\_ the above resolution and notice was duly served upon the owner therein named by registered/certified mail, placed in a U.S. Post Office receptacle at \_\_\_\_\_ m. or by personal service at: \_\_ time: \_\_ m.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_, \_\_

\_\_\_\_\_  
Notary Public in and for Kalamazoo County, Michigan.

My Comm. exp. \_\_\_\_\_

- D. The cost of replacement or repair of a sidewalk to be charged may be based upon standard average costs experienced by the Department of Public Works during the prior year, less such subsidy or credit as the City Commission may allow.
- E. When it comes to the attention of the Director of Public Works that a sidewalk has become out of repair to the extent that it presents an immediate menace to traffic, it shall be lawful for him to erect barricades or red lights, or to make temporary repairs in the sidewalk, and include the cost of such barricades, red lights and temporary repairs with the cost of the permanent improvement and charge against the adjacent property as provided in this section.

**§ 33-39. Sidewalk improvement costs may be assessed before or after improvement made and may be collected by legal process. [P.S. Code § PS301.3413]**

The City Commission, as in other cases of public or local improvements benefiting adjoining property, is hereby empowered to assess the reasonable costs of sidewalk improvements, either before or after the installation of such improvement. This power shall apply either to new construction or to replacement and repair costs, as the City Commission shall determine. The City Commission, in its discretion, may also authorize collection of such costs by civil process, counterclaim or such other means as may be proper for the collection of debts by legal process.

**§ 33-40. Record of sidewalk orders and resolutions. [P.S. Code § PS301.3414]**

It shall be the duty of the City Clerk to keep in his office a separate record of all orders and resolutions of the City Commission pertaining and relating to sidewalks and issued or adopted under this article and such other matters relating to sidewalks as may be provided by ordinance or resolution.

**§ 33-41. Construction of driveway approaches. [P.S. Code § PS301.35]**

- A. Any person who shall construct, remove, enlarge, relocate or otherwise substantially modify a driveway approach within the public street right-of-way shall obtain approval of the proposed work by the City engineer or his designated representative. Any structure, driveway, parking area or vehicle area which lies outside the

§ 33-41 public street right-of-way shall be constructed in accord with this section, to the extent that it affects the safe and convenient use of the public right-of-way. § 33-42

- B. The City shall establish standard specifications for the layout and construction of driveway approaches and related areas and structures. Such standard specifications shall be recommended by the City engineer, established by resolution of the City Commission and kept on file in the office of the Department of Public Works. Work on any driveway approach or related area or structure shall conform to such standard specifications. A permit for such work shall be issued in accordance with established regulations.

**§ 33-42. through § 33-52. (Reserved)**

ARTICLE IV  
Use for Utility Poles, Wires and Conduits

**§ 33-53. Definitions. [P.S. Code § PS405.1]**

As used in this article, the following terms shall have the meanings indicated:

**UTILITY** — All telegraph, telephone, electric light and power companies, corporations, municipal corporations, persons and partnerships doing business in the City by erecting poles and laying conduits for the purpose of carrying electric wires over, under or through the streets, alleys or public places of the City.

**§ 33-54. Application of article. [P.S. Code § PS405.2]**

All utilities using the streets of the City by erecting poles or laying conduits and maintaining and repairing the same, for the purpose of carrying electric wires over, under or through the streets, alleys and public places of the City are hereby made subject to the provisions of this article.

**§ 33-55. Construction of article; reservation of rights. [P.S. Code § PS405.13]**

This article shall not be construed in any way as a franchise, but as a regulatory measure controlling the use of the streets, alleys and public places of the City by a utility. The City Commission reserves the right to alter, amend or repeal this article at any time and to make such further rules, orders and regulations as may, from time to time, be deemed necessary by the City Commission in order to protect the interest, safety and welfare of the public or the property rights of the City.

**§ 33-56. Supervision of work; joint use and marking of poles. [P.S. Code § PS405.2]**

The Director of Public Works shall have supervision of the erection of all telephone, telegraph, electric light and power poles, and of all excavations and fillings made for the laying of pipes or conduits in all the streets, alleys or public places of the City. Wherever possible, the utilities shall, by agreement, make joint use of such poles. All such poles shall be clearly marked with the name of the utility owning the same.

**§ 33-57. Poles and wires prohibited on certain streets; exception. [P.S. Code § PS405.3]**

- A. It shall be unlawful for any utility to erect and maintain poles and wires for telephone, telegraph and electric light and power purposes in the City within the districts and streets herein described:
- (1) Michigan Avenue and East South Street;
  - (2) Burdick Street;
  - (3) Portage Street, between East Michigan Avenue and East South Street;
  - (4) Burdick Street, between Lovell Street and Eleanor Street; and
  - (5) Kalamazoo Avenue, between Westnedge Avenue and Michigan Avenue.
- B. This section shall not be construed to prevent the erection and maintenance of the necessary poles within such districts and on such streets for the distribution of wires from underground conduits to reach the subscribers of such utilities; provided that, such distributing poles shall be set in alleys when practicable and, in any and all cases, in such a manner as not to unreasonably obstruct or interfere with other proper uses of the streets and alleys.

**§ 33-58. Bond or insurance. [P.S. Code § PS405.10]**

- A. Each utility governed by this article shall file and keep in force with the City Clerk a bond in the sum of

§ 33-58 § 33-61  
\$25,000, unless changed hereafter by resolution of the City Commission, the same to be approved by the City Attorney. Such bond shall be conditioned upon the indemnification of the City for all losses or damages sustained by any person arising or growing out of the construction, operation or maintenance of poles, wires, cables, conduits or other equipment or services of the utility in the use of the public streets, alleys or sidewalks of the City, when, as and if the City shall become legally obligated and required to pay the same to any such person. [Amended 5-7-2018 by Ord. No. 1964]

- B. Such bond shall further be conditioned that such utility shall indemnify and save harmless the City from all losses and damages caused by or arising or growing out of the work of the utility in laying conduits, erecting poles, wires, cables and all accessories thereto and the operation and maintenance thereof, and that the utility shall properly replace and restore all materials removed in any street in making any openings therein in as good a state and condition as it was before being disturbed.
- C. An adequate public liability insurance policy may be filed in lieu of the bond required by this section.

**§ 33-59. Location and height of poles. [P.S. Code § PS405.4]**

All utility poles placed in, on or along any street, alley or public place in the City shall be placed so as to cause the least inconvenience to public travel. All poles of any lead must be, as nearly as practicable, uniformly spaced and of uniform height, as prescribed by the Department of Public Works. Each line of poles shall run on one side of the street only, and may not cross to the other side of the street, unless it is necessary, in the opinion of the Director of the Department of Public Works. All poles shall be located as directed by the Director of Public Works and, whenever practicable, shall be placed upon the line separating properties of different ownership.

**§ 33-60. Permit for excavations. [P.S. Code § PS405.5]**

- A. No utility shall make any excavation in any street, alley or public place, for the purpose of laying any conduit or erecting any lead of 10 or more poles, or a relocation of 10 or more poles, without first obtaining a permit so to do. Application for such permit shall be filed with the Department of Public Works and shall be accompanied by a map showing the proposed route or routes and the location of the conduits and poles thereon. The Director of Public Works shall submit such application and map, after review and investigation, with recommendations, to the City Manager for action. If the City Manager decides that the application should be referred to the City Commission, he may so refer it. After approval by the City Manager or the City Commission, the Department of Public Works shall issue a permit for such excavation. Such map shall be kept on file in the Department of Public Works.
- B. The Director of Public Works shall issue permits for excavations for the purpose of erecting or relocating a lead of less than 10 poles, provided he deems such erection or relocation to be in accordance with the requirements of this article and consistent with the public interest.
- C. A utility, before opening any pavement or highway or wrought portion of a street, alley or public place, for any repair work, shall notify the Department of Public Works and secure a permit for such work. In case of necessary emergency repairs during other than business hours of the Department of Public Works, a report shall be made and permit shall be obtained within 24 hours.

**§ 33-61. General regulations for openings and trenching. [P.S. Code § PS405.6]**

- A. Whenever any utility shall dig up or trench any street, alley or public place, it shall do so with such expedition as to least hinder and impede public travel. The utility shall leave all streets open for travel, unless otherwise permitted by the Department of Public Works.
- B. All trenching by utilities in public streets, for the purpose of placing new construction or repairing, extending or altering existing construction, shall be subject to rules and regulations adopted by the Department of Public Works and approved by the City Commission. All materials removed in trenching operations shall be replaced



§ 33-61 in accordance with the specifications, rules and regulations adopted by the Department of Public Works and approved by the City Commission. § 33-67

- C. All trenching and openings in paved or hard-surfaced streets, alleys or public places shall be properly guarded and adequately lighted, until resurfaced by the City.
- D. All trenching and openings in unpaved or dirt streets, alleys or public places shall be properly guarded and adequately lighted until the same shall be refilled and made safe for travel, and where any such refills have been made, the utility shall guard, light and properly protect the same until safe for travel and shall inspect such refilled openings, and if necessary, shall refill and maintain such openings in a condition safe for travel until the same shall be permanently safe for travel and until expressly relieved from guarding, lighting and protecting the same by the Department of Public Works.

**§ 33-62. Minimum depth of conduits. [P.S. Code § PS405.8]**

The depth at which any utility shall lay its conduits shall be not less than 24 inches or such other depth as the Director of Public Works may prescribe.

**§ 33-63. Resurfacing to be done by City. [P.S. Code § PS405.7]**

When any opening in the streets, alleys or public places, for construction or repair work, is made by any utility, the resurfacing shall be done by the Department of Public Works and the utility shall pay the charges for such work, as fixed from time to time by the Department of Public Works and approved by the City Commission.

**§ 33-64. Duty of utility when City orders street improvement. [P.S. Code § PS405.9]**

Whenever the City Commission shall direct that a street, alley or public place be paved, surfaced or otherwise improved, it shall be the duty of all utilities to immediately place all poles, conduits, services and other underground structures in a state of good repair, to place services extending from the area to be paved, and to make such extensions, additions and alterations to the underground system that will insure that no removal of the newly placed paving or surfacing shall be necessary for a period of not less than five years.

**§ 33-65. Payment for work done by City. [P.S. Code § PS405.10]**

A utility shall pay to the City, within 30 days after demand, all sums due from the utility to the City for any work done or materials used by the City under the provisions of this article and any and all other sums due by reason of the provisions hereof.

**§ 33-66. Liability for damages to public property. [P.S. Code § PS405.11]**

Any utility shall be liable to and shall reimburse the City for all damages and injuries which may be caused to the streets, avenues, lanes, alleys and other public places of the City, caused by or arising or growing out of the existence therein of its poles, wires, cables, conduits, equipment, apparatus and services accessory thereto.

**§ 33-67. through § 33-78 (Reserved)**



ARTICLE V  
Use by Gas Utilities

**§ 33-79. Definitions. [P.S. Code § PS406.1]**

The following definitions shall apply in the enforcement and interpretation of this article, unless clearly indicated to the contrary:

**CONSUMER** — Any person, association, corporation or municipality or other political subdivision of the state or of the United States supplied with gas by any utility.

**SERVICE CONNECTION** — The pipe and appurtenances which connect any gas main in a public highway, street or alley with the inlet connections of a consumer's meter on the consumer's premises.

**UTILITY** — Any person, firm, partnership, association or corporation supplying gas to a consumer in the City by means of mains and pipes laid in the streets, alleys and public places of the City.

**§ 33-80. Construction of article; reservation of rights. [P.S. Code § PS406.11]**

This article shall not be construed in any way as a franchise, but as a regulatory measure controlling the use of the streets, alleys and public places of the City by utilities. The City Commission reserves the right to alter, amend or repeal this article at any time and to make such further rules, orders and regulations as may, from time to time, be deemed necessary by the City Commission, in order to protect the interest, safety and welfare of the public and the property rights of the City.

**§ 33-81. Bond or insurance. [P.S. Code § PS406.8]**

- A. Each utility using the streets, alleys and other public places of the City shall file and keep in force, with the City Clerk, a bond in the sum of \$25,000, unless changed hereafter by resolution of the City Commission, the same to be approved by the City Commission and to be in a form provided and approved by the City Attorney. Such bond shall be conditioned upon the indemnification of the City for all losses or damages sustained by any person arising or growing out of the construction, operation or maintenance of the pipes, mains or conduits or other equipment or services of the utility in the streets, alleys, sidewalks or other public places of the City, when, as and if the City shall become legally obligated and required to pay the same to any such person. [Amended 5-7-2018 by Ord. No. 1964]
- B. Such bond shall further be conditioned that such utility shall indemnify and save harmless the City from all losses and damages caused by or arising or growing out of the work of the utility in laying pipes, mains or conduits and all accessories thereto and the operation and maintenance thereof, and that the utility shall properly replace and restore all materials removed in any street in making any openings therein in as good a state and condition as before being disturbed.
- C. An adequate public liability insurance policy may be filed in lieu of the bond required by this section.

**§ 33-82. Permit for new work and openings for service connections. [P.S. Code § PS406.3]**

- A. No utility shall begin any new construction work in any street, alley or other public place, without first obtaining a permit so to do. Application for such permit shall be filed with the Department of Public Works and shall be accompanied by plans showing the streets, alleys and public places to be opened and the proposed location of the pipes therein, with specifications of the kind and size of pipe to be used. The Director of Public Works shall submit such application and plans, after review and investigation, with recommendations, to the City Manager for action. If the City Manager decides that the application should be referred to the City Commission, he may so refer it. After approval by the City Manager or the City Commission, the Department of Public Works shall issue a permit authorizing the proposed work.
- B. A utility, before opening the streets, alleys or public places, for the purpose of service connections, shall apply

§ 33-82 to the Department of Public Works for a permit for such work and no such work shall be done until such permit is issued. § 33-89

**§ 33-83. General regulations for openings and trenching. [P.S. Code § PS406.4]**

- A. Whenever any utility shall dig up or trench any street, alley or public place, it shall do so with as little disturbance, impediment or interference with the ordinary uses thereof by the public, as possible. The utility shall leave all streets open for travel unless otherwise permitted by the Department of Public Works.
- B. All trenching, by utilities, in the public streets, for the purpose of placing new construction or repairing, extending or altering existing construction, shall be subject to rules and regulations adopted by the Department of Public Works and approved by the City Commission. All materials removed in trenching operations shall be replaced in accordance with the specifications, rules and regulations adopted by the Department of Public Works and approved by the City Commission.
- C. All trenching and openings in paved or hard-surfaced streets, alleys or public places shall be properly guarded and adequately lighted, until resurfaced by the City.
- D. All trenching and openings in unpaved or dirt streets, alleys or public places shall be refilled and made safe for travel, and where any such refills have been made, the utility shall guard, light and properly protect the same until safe for travel and shall inspect such refilled openings, and if necessary, shall refill and maintain such openings in a condition safe for travel until the same shall be permanently safe for travel and until expressly relieved from guarding, lighting and protecting the same by the public works department.

**§ 33-84. Minimum depth of mains or pipes. [P.S. Code § PS406.5]**

The depth at which any utility shall lay its pipes or mains shall not be less than 24 inches or such further depth as the Director of Public Works may prescribe.

**§ 33-85. Resurfacing to be done by City. [P.S. Code § PS406.7]**

When any opening is made by a utility in the streets, alleys or public places for construction or repair work, the resurfacing shall be done by the Department of Public Works and the utility shall pay for such work in accord with charges fixed by the Department of Public Works and approved by the City Commission.

**§ 33-86. Duty of utility when City orders street improvement. [P.S. Code § PS406.6]**

Whenever the City Commission shall direct that a street, alley or other public place be paved, surfaced or otherwise improved, it shall be the duty of all utilities to immediately place all pipes, conduits, services and other underground structures in a state of good repair, to place services extending from the area to be paved, and to make such extensions, additions and alterations to the underground system as will insure that no removal of the newly placed paving or surfacing shall be necessary for a period of not less than five years. Such work shall be done in accordance with the provisions of this article.

**§ 33-87. Payment for work done by City. [P.S. Code § PS406.8]**

A utility shall pay to the City within 30 days after demand, all sums due from the utility to the City for any work done or materials used by the City under the provisions of this article.

**§ 33-88. Injuring or interfering with streets, trees, sewers, drains, etc. [P.S. Code § PS406.2]**

No utility shall do any injury to any of the streets, alleys or public places, nor to any shade trees therein, nor in any manner interfere with or disturb any water or gas pipes or any public or private drain or sewer, nor any underground lines or conduits of electrical wires, or other appliances, nor any underground property belonging to or hereafter to be laid by the City or any authorized person or corporation.

§ 33-89

§ 33-91

**§ 33-89. Liability for damages to public property. [P.S. Code § PS406.9]**

Any utility shall be liable to and shall reimburse the City for all damages and injuries which may be caused to the streets, avenues, lanes, alleys and other public places of the City, caused by or arising or growing out of the existence therein of its mains, pipes, conduits and equipment and apparatus and services accessory thereto.

**§ 33-90. Defense of suits. [P.S. Code § PS406.10]**

In case any suit or action is brought in court by any person against the City for damages resulting from the alleged negligence or carelessness of any utility, such utility may, if it so desires, intervene and defend such suit or action, upon written notice given by the City Clerk to the utility. Such notice shall inform the utility that suit has been filed and shall be served by the City Clerk, by mailing the same to the principal office of the utility, within 10 days after notice of such proceedings has been served upon the City.

**§ 33-91. through § 33-101. (Reserved)**



## ARTICLE VI

**Permit for Installation of Pipe Lines for Oil, Water, Etc.****§ 33-102. Required. [P. & L. Code § PL1210.1]**

It shall be unlawful for any person to install in, over or upon any of the streets, alleys or public places of the City any pipe or pipe lines for the purposes of conducting oil, water, gasoline or similar substances, without first having been granted a permit therefor, which permit shall be granted only upon compliance with the provisions of this article.

**§ 33-103. Application. [P. & L. Code § PL1210.2]**

- A. Written application for a permit required by this article shall be filed with the City Clerk. Such application shall contain the following:
- (1) The name and post office address of the applicant.
  - (2) The purpose or purposes for which the pipe line is to be used.
  - (3) A map showing the proposed route to be used, together with the length thereof, and any other information which may be required by the City Engineer.
  - (4) An agreement that the applicant consents to and will comply with the provisions of this article.

**§ 33-104. Fee. [P. & L. Code § PL1210.2; amended 5-7-2018 by Ord. No. 1964]**

In case a permit applied for under this article is granted, the person to whom it is granted shall pay to the City a fee of \$1 per foot per year, unless changed hereafter by resolution of the City Commission, on all of the pipe line that is installed or laid in, over or upon any of the streets, alleys or public places of the City. Such fee shall initially be paid when the permit is issued, and subsequent payments shall be made to the Treasurer on or before each anniversary date of such permit.

**§ 33-105. Applicant's bond. [P. & L. Code § PL1210.2]**

Prior to the issuance of a permit under this article, the applicant shall file with the City Clerk a bond conditioned that the applicant will indemnify and save harmless the City against any and all loss or damage to either persons or property because of any negligence or alleged negligence in any work done pursuant to the permit applied for, or from any other cause whatsoever because of the granting of the use of streets or other public property to the applicant, and that the applicant will comply with all of the provisions of this article and any other regulations now or hereafter adopted by the City Commission relative thereto. Said bond shall be in the form and amount approved by the City Attorney and with surety or sureties to be approved by the City Attorney.

**§ 33-106. Issuance. [P. & L. Code § PL1210.3]**

An application for a permit under this article shall be presented by the City Clerk to the City Commission and if approved by the City Commission. The City Clerk shall issue the permit to the applicant, upon payment of the fee and filing of the bond required by this article and upon compliance with any and all other clauses or conditions that the City Commission may prescribe to be contained in the permit.

**§ 33-107. Revocation. [P. & L. Code § PL1210.2]**

Any permit granted under this article shall be revocable at the will of the City Commission, with or without cause. In case of the revocation of such permit, the holder thereof shall remove the pipeline covered thereby within 30 days after written notice that the permit has been revoked, and shall restore the streets in first-class condition and in a manner satisfactory to the City Engineer.

§ 33-108

**§ 33-108. Article not applicable to public utilities. [P. & L. Code § PL1210.5]**

§ 33-109

This article shall not apply to public utilities operating in the City.

**§ 33-109. through § 33-120. (Reserved)**



ARTICLE VII  
**Revocable Franchises for Retail Wheel Electric Providers<sup>146</sup>**  
**[Adopted 9-14-1998 by Ord. No. 1658]**

**§ 33-121. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**CITY MANAGER** — The City Manager of the City of Kalamazoo, and shall include his or her designee.

**ELECTRICAL SYSTEM** — Electric lines, towers, masts, poles, cross-arms, guides, braces, feeders, transmission and distribution wires, transformers and other electrical appliances used in the transmission of electricity which exist on, along, across or under the highways, streets, alleys, bridges (hereinafter "rights-of-way") within the City of Kalamazoo.

**FRANCHISE** — A revocable franchise which allows a person to be a retail wheel electrical provider.

**PERSON** — An individual, corporation, company, association, firm, partnership or limited liability company, including their lessors, trustees and receivers.

**RETAIL WHEEL ELECTRICAL PROVIDER or PROVIDER** — A person which supplies or desires to supply electricity, generated by another, through an electrical system which is entirely or substantially owned by another.

**§ 33-122. Franchise required.**

No person shall become a retail wheel electrical provider within the City without first obtaining a revocable franchise.

**§ 33-123. Application process.**

- A. A provider, or one who desires to be a provider, shall apply for a revocable franchise by providing to the City the following information:
- (1) The name and address of the applicant; if the applicant is not a natural person, the name and address of each of its officers, general partners and each limited partner holding an equity interest of more than 20%;
  - (2) Evidence of all required regulatory approvals, permits and licenses for the offering or providing of electricity by way of retail wheeling; to the extent such an approval, permit or license cannot be obtained prior to the issue of a franchise, the provider shall satisfy the City that it has been obtained prior to the provider's actual use of an electrical system;
  - (3) A statement that the applicant is not in any way indebted to the City for taxes, fees, costs or any other sums; and
  - (4) A list of all persons to whom the provider intends to provide electricity.
- B. The City may request that an applicant submit additional information which the City reasonably deems necessary to respond to the application.
- C. To reimburse the City for its fixed and variable costs incurred by the City for granting and monitoring revocable franchises, each applicant shall pay a nonrefundable application fee in the amount of \$2,500 (unless changed hereafter by resolution of the City Commission); said fee shall be paid as follows:
- (1) One thousand two hundred fifty dollars upon the submission of the application; and

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**146. Editor's Note: Ord. No. 1658, adopted 9-14-1998, amended this Ch. 33 by adding provisions designated as Art. VI, §§ 33-108—33-113. In order to avoid conflicts in section numbering, the editor has redesignated the provisions of said ordinance as herein set out.**

- § 33-123 (2) One thousand two hundred fifty dollars upon the return to the City by the applicant of the signed revocable franchise. § 33-124
- D. Within 60 days of receiving a provider's application and all required information, the City Manager shall present the provider's request for a revocable franchise to the City Commission, which shall grant or deny the request or, if reasonably necessary, request more information before granting or denying said request.
  - E. A revocable franchise shall not be granted unless the applicant establishes that it is capable of complying with the legal, technical and financial requirements of this article.
  - F. If the City Commission grants the provider's request for a revocable franchise, the City Manager shall prepare and execute a revocable franchise agreement consistent with this chapter and submit it to the provider for its signature; said signature shall indicate that the provider acknowledges and agrees to abide by the terms and conditions set forth therein and within this chapter.
  - G. A revocable franchise shall become effective when the City receives an original franchise bearing the signature of the applicant along with the payment of the second required application fee.
  - H. A revocable franchise granted by the City Commission, executed by the City Manager and sent to the applicant but not signed and returned (with the required fee) by the applicant within nine months of its being mailed to the applicant shall be null and void.
  - I. Prior to the expiration of a revocable franchise, a provider may apply for a renewed revocable franchise, the process and application fee for which shall be same as the original revocable franchise.
  - J. The terms, conditions and duration of a renewed revocable franchise shall be the same as for the original revocable franchise.

**§ 33-124. Terms and conditions.**

- A. A revocable franchise shall remain in effect for a term of five years commencing upon the date it is executed by the City.
- B. All such revocable franchises shall be nonexclusive and non-assignable; by issuing a revocable franchise, the City does not agree to restrict the number of revocable franchises in all or part of the City.
- C. The revocable franchise shall not limit or modify any other revocable franchise, license or revocable franchise previously granted by the City to any other occupant of the rights-of-way.
- D. All revocable franchises shall be revocable by the City Commission for any reason, upon providing 180 days' written notice to the provider; in the event a public electric utility desires an irrevocable franchise, the process set forth in § 144 of the City Charter shall apply.
- E. The provider's use of any rights-of-way shall not exceed that authorized by this chapter and the revocable franchise.
- F. The provider shall use the electrical systems of others and shall not itself construct or cause to be constructed any electrical system for its own purposes other than when such system is located upon a customer's property or is necessary to connect a customer to another utility's electrical system (and then, only if such construction would not amount to an unreasonable duplication of existing facilities owned by local utilities). In the event such construction is necessary, the provider shall first give the City 10 days written notice of its intent to so construct.
- G. Any unlawful use of private property over the objection of the property owner shall constitute a violation of this chapter.
- H. In the event a provider, during the term of its revocable franchise, desires to provide electricity to persons not

§ 33-124 previously disclosed to the City in the provider's application, the provider shall notify the City in writing prior to so providing electricity. § 33-126

- I. In the event of a conflict between this chapter and a revocable franchise, this chapter shall prevail.
- J. Unless required to do so by state or federal law, a person, including a public utility, which owns an electrical system, shall not lease or sublease any portion of its electrical system, or allow another to use its electrical system, unless said person has first obtained from the City a revocable franchise allowing it to do so.
- K. If a franchisee forfeits or otherwise loses its rights under a pole-conduit license agreement with the owner of an electrical system, the franchisee shall notify the City Manager in writing within 14 days.
- L. A franchisee shall provide the City with copies of all documents which it sends to the Michigan Public Service Commission and copies of all orders, decisions or correspondence franchisee receives from the Michigan Public Service Commission.

**§ 33-125. Liability; indemnity.**

- A. A provider shall have no recourse against the City for any loss or damage arising out of the failure of the City to have the authority to grant all or any part of a revocable franchise or the authority to grant permission to use all or part of the rights-of-way. A provider acknowledges that on accepting a revocable franchise:
  - (1) It did so relying on its own investigation and understanding of the power and authority of the City; and
  - (2) That it has not been induced to obtain a revocable franchise by any understanding or promise by or on behalf of the City concerning any term or condition of a revocable franchise not expressed in this chapter or in the revocable franchise.
- B. Each provider accepts as its own risk that the City may make use of the rights-of-way in which a system used by a provider is located in a manner inconsistent with the provider's use and that in such event the provider will not be entitled to compensation from the City.
- C. The City shall not be liable for injury or damage to others arising out of a provider's use of a system due to the act or omission of any person or entity other than the City or those persons or entities for which the City is legally liable as a matter of law.
- D. A provider shall, at its sole cost and expense, indemnify and hold harmless the City and its respective employees, officers, boards, agents, and contractors (hereinafter referred to in this chapter as "indemnitees"), from and against any and all liability which may be imposed upon or against the indemnitees by reason of any act or omission of a provider, its employees, agents, contractors or subcontractors, resulting in personal injury or property damage to any person arising out of its use of an electrical system.
- E. In the event any action shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, a provider shall, at the provider's sole cost and expense, defend same with legal counsel selected by the provider and consented to by the City Attorney, which consent shall not to be unreasonably withheld.
- F. A provider shall immediately advise the City Attorney of any claim or litigation that may result in liability to the City.
- G. The issuance of a revocable franchise, or other action or transaction of the City, shall not constitute any representation, guarantee or warranty by the City of any kind to any person, customer or a provider and shall not be a defense against a provider's obligation to indemnify and hold the City harmless.

**§ 33-126. Violation; penalty. [Amended 5-7-2018 by Ord. No. 1964]**

§ 33-126

§ 33-126

- A. The City of Kalamazoo may charge any person who violates any section of this chapter with a civil infraction, unless the section specifically states otherwise.
- (1) A fine for a violation of this chapter shall be not more than \$200.
  - (2) A second or subsequent violation of this chapter committed by an individual who has been previously adjudicated responsible for a violation of this chapter within any twelve-month period may be fined a minimum fine of \$200 but not more than \$500.
- B. In addition to any remedies under this chapter, the City may:
- (1) Bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this chapter; and/or
  - (2) Revoke a person's revocable franchise.
- C. Each day on which any violation of this chapter continues constitutes a separate infraction and shall be subject to penalties and other remedies as a separate infraction.
- D. Any material, false or misleading statement or representation knowingly made by an applicant or provider in an application, in any document submitted to the City pursuant to this chapter, shall be a violation of this chapter and, if made by a provider, a material breach of its revocable franchise, and shall subject the applicant or provider to all penalties and remedies which are available to the City, including the denial of the application or revocation of the revocable franchise.

**Chapter 34**

**SWIMMING POOLS**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

- Buildings and building regulations — See Ch. 9.**
- Stormwater system — See Ch. 29.**
- Construction Board of Appeals — See § 9-31 et seq.**
- Water — See Ch. 38.**
- Wastewater discharge regulations and enforcement procedures — See Ch. 28.**
- Zoning Ordinance — See App. A.**

**STATUTORY REFERENCES**

**Public swimming pools — See MCLA § 333.12521 et seq.**

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**§ 34-1. Application of chapter. [B&H Code § BH804]**

The provisions of this chapter shall apply to all swimming pools, except that, where state regulations are more restrictive, the provisions of such regulations shall apply.

**§ 34-2. Definitions. [B&H Code § BH803]**

As used in this chapter, the following terms shall have the meanings indicated:

**SWIMMING POOL** — Any artificially constructed are capable of containing water and of being used for swimming, wading or bathing, having a depth of three feet or more at any point.

**§ 34-3. Permit to construct and operate; fees. [B&H Code § BH802]**

- A. No person shall construct, operate, maintain or use a swimming pool in the first instance, without first having obtained a permit from the Building Division of the Department of Community Development in accordance with the provisions of this section. The application for such permit shall be accompanied by a complete and detailed set of plans and specifications for the swimming pool, including the following:
  - (1) Plat plan.
  - (2) Pool dimensions.
  - (3) Location and type of waste disposal system.
  - (4) Structural calculations and details.
  - (5) Fence and gate details.
- B. The fee for a permit required by this section shall be such as is prescribed by resolution of the City commission. All electrical, plumbing or other permit fees otherwise imposed by the City shall be deemed required in addition thereto.

**§ 34-4. Inspection and approval prior to use. [B&H Code § BH802]**

Before any swimming pool for which a permit is issued under this chapter shall be used, a final inspection shall be made by and approval obtained from the Department of Buildings.

§ 34-5  
**§ 34-5. Distance from public streets and lot lines. [B&H Code § BH805; 9-17-1979 by Ord. No. 1173]** § 34-10

No pool edge shall be located closer than 25 feet to any public street or eight feet to any lot line. Upon a showing that the variance requirements set forth in the building code have been met, the Building Board of Appeals may grant a variance from this requirement.

**§ 34-6. Electrical requirements. [B&H Code § BH805]**

All electrical wiring used on, in or about the premises upon which a swimming pool is located shall conform in all respects with the electrical code.

**§ 34-7. Connection of drain line to City sewer system. [B&H Code § BH805; amended 8-6-1990 by Ord. No. 1499; 9-20-2004 by Ord. No. 1776]**

A. The drain line for a swimming pool may be connected to the City stormwater system or the sewer system so long as the following provisions are complied with:

- (1) The drain line shall not be connected to a storm sewer except in full compliance with Chapter 29; and
- (2) The drain line may be connected to a sanitary sewer subject to the approval of the Director of Public Utilities and the provisions of Chapter 28 of the Kalamazoo City Code.

**§ 34-8. Water supply. [B&H Code § BH806]**

A. Swimming pools shall be provided with a potable water supply. The water supply line to the pool shall be protected against back flow of water by means of a fixed air gap six inches or more above the highest possible water level, or by an approved vacuum breaker installed in an approved manner. All filler pipe shall be located so as to prevent hazards to bathers.

B. Provisions shall be made for adequate recirculation and filtration of pool water.

**§ 34-9. Filtration of scum, splash and deck water. [B&H Code § BH805]**

Swimming pool construction shall be such that all scum, splash and deck water shall not return to the pool, except through a filter system.

**§ 34-10. Fencing. [B&H Code § BH807]**

A. All swimming pools located outside of a building shall be enclosed by a fence extending from the ground to a point at least four feet above the ground or any climbable, stationary object within three feet of the fence. Such fence shall be one of the following types:

- (1) Chain link fence with mesh not exceeding 2 1/4 inches.
- (2) Vertical board or pole fence with boards or poles spaced not greater than two inches and with all horizontal members on the pool side of the fence.
- (3) Solid fence having a flush exterior.

B. Gates shall meet the requirements for the fence construction, shall be self-closing, self-latching and equipped with a keyed lock capable of securely holding the gate closed. Service gates not ordinarily used for ingress or egress for swimmers need not be self-closing or self-latching.

C. For the purpose of determining suitable alternate types of fences and gates, the Building Board of Appeals is hereby granted the authority to make such rulings.



- § 34-10
- D. Fences existing at the time of adoption of Ordinance No. 647, from which this section is derived, and which do not conform to this section, shall be allowed to remain, provided: § 34-13
- (1) The height conforms with Subsection A above.
  - (2) Gates conform with Subsection B above.
  - (3) No openings are large enough for the passage of children.
- E. At such time as such fence requires replacement, the provisions of this section shall be complied with.

**§ 34-11. Standards of operation, use and maintenance. [B&H Code § BH808]**

- A. All swimming pools and the equipment, construction and apparatus before mentioned in this chapter shall be maintained, operated and used as intended in a safe and sanitary manner, and all reasonable precaution shall be taken to protect all persons in the area from any hazard.
- B. All lighting in and around a swimming pool shall be so shielded, arranged and operated as to prevent annoyance to neighboring premises.
- C. No loud, offensive or unnecessary noise or sounds shall be permitted to emanate from a swimming pool or pool area in such a manner as to be contrary to the provisions of Chapter 21 of this Code.
- D. No persons with infectious or communicable diseases shall be permitted within any swimming pool premises. Any such person knowingly violating this subsection and any pool owner knowingly permitting the violation of this subsection may be prosecuted for such violation.
- E. Each swimming pool, its environs and its operation, shall be clean and sanitary at all times and the pool shall be kept free of floating material, sediment, scum and debris.
- F. Disinfecting agents shall be applied to swimming pool water in such a manner as to provide adequate germicidal or bactericidal protection. A standard of 0.3 to 1.0 parts per million chlorine residual shall be considered acceptable. The pH (alkalinity and acidity) of the pool shall be maintained between 7.0 and 8.0. Adequate testing devices shall be provided.

**§ 34-12. Enforcement of chapter. [B&H Code § BH809]**

- A. The Health Department shall inspect all swimming pools for sanitation, at least once yearly, and shall enforce all parts of this section relating to safety and sanitation. The Department of Public Safety shall enforce Subsection C of this section. The Building Section of the Department of Public Services shall enforce all other provisions of this chapter.
- B. The Health Department, the Department of Public Safety and the Building Section shall assist and consult each other in the enforcement of this chapter.
- C. All enforcing departments and divisions, by their authorized agents, shall have the right to enter upon the premises where any swimming pool is located within the City, at any reasonable hour, for the purpose of inspecting the pool and surrounding area for compliance with this chapter.

**§ 34-13. References in chapter. [Added 9-7-1982 by Ord. No. 1268]**

All references in this chapter to "Building Division of the Department of Community Development" shall mean "Building Section of the Department of Public Services."



**Chapter 35**  
**TAXATION**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in article and section histories. Amendments noted where applicable.]**

**CHARTER REFERENCES**

**Appointment of City Assessor — See § 11.**

**Taxation generally — See § 77 et seq.**

**City Assessor generally — See § 51.**

**Board of Review — See § 81 et seq.**



**GENERAL REFERENCES**

**Special assessments for public improvements — See Ch. 32.**





**STATUTORY REFERENCES**

**General Property Tax Act** — See MCLA § 211.1 et seq.

§ 211.30a.

**Assessment role** — See MSA § 7.24; MCLA § 211.24.

**Tax exemption for housing project** — See MSA § 16.114(15a); MCLA § 125.1415a(5).

**Completion of review of assessments** — See MSA § 7.30(1); MCLA



ARTICLE I  
In General

**§ 35-1. "Tax day." [Adm. Code § A207.34]**

The "tax day," for the purpose of assessing the value and determining the taxable situs of persons and property, both real and personal, in the City shall be the same as the "tax day" for such purposes as set forth in the General Property Tax Act of the State of Michigan (MSA § 7.1 et seq.; MCLA § 211.1 et seq.).

**§ 35-2. Date for completion of assessment roll. [Adm. Code § A207.35]**

Each year, unless in conflict with law, the City Assessor shall, on or before the first Monday in March, make and complete the assessment roll.

**§ 35-3. Review and correction of assessment roll. [Adm. Code §§ A207.36, A207.38]**

- A. Each year the Board of Review shall meet, for the purpose of reviewing and correcting the assessment roll, at the office of the City Assessor, on the first Tuesday following the first Monday in March, between the hours of 9:00 a.m. and 5:00 p.m., and shall continue in session until the assessment roll shall have been revised, corrected and approved. The review of assessments shall be completed on or before the first Monday in April.
- B. All notices required to be given to the public of the time and place of meeting of the Board of Review shall reflect the dates provided for in this section.

**§ 35-4. Tax exemption for projects financed under State Housing Development Act. [Adm. Code §§ A502.1A, A502.1B; amended 2-24-1975 by Ord. No. 1045; 12-22-1980 by Ord. No. 1215; 6-3-1985 by Ord. No. 1352; 7-6-1987 by Ord. No. 1418; 2-8-1988 by Ord. No. 1431; 5-31-1988 by Ord. No. 1442; 11-6-1989 by Ord. No. 1477; 10-4-1993 by Ord. No. 1559; 11-6-2001 by Ord. No. 1726; 6-20-2008 by Ord. No. 1842; 7-20-2009 by Ord. No. 1857; 7-21-2014 by Ord. No. 1923; 9-21-2015 by Ord. No. 1935; 9-17-2018 by Ord. No. 1972]**

- A. Preamble. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for low-income persons and families and to encourage the development of such housing by providing for a service charge payment in lieu of property taxes in accordance with the State Housing Development Authority Act. The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under the Act at any amount as agreed upon by the City and the sponsor, as allowed by the Act, not to exceed the taxes that would be paid but for the Act. It is further acknowledged that housing for low-income persons and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing a real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this section for tax exemption and the service charge payment in lieu of ad valorem property taxes during the periods contemplated by this section are essential to the determination of economic feasibility of housing developments that are constructed or rehabilitated with financing extended in reliance on such tax exemption.

- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ACT — The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended, MCLA § 125.1401 et seq.

ANNUAL SHELTER RENTS — The total collections during a calendar year or other agreed-upon annual period from or paid on behalf of all occupants of the housing development representing rent or occupancy charges, exclusive of charges for utilities furnished to the occupants. (This definition is not applicable to a housing development project which receives project-based Section 8 rental subsidy.)

**AUTHORITY** — The Michigan State Housing Development Authority.

**CONTRACT RENTS** — The total contract rents (as defined by HUD in regulations promulgated pursuant to Section 8 of the United States Housing Act of 1937, as amended) received in connection with the operation of a housing development during a calendar year or other agreed-upon annual period, exclusive of utilities. (This definition is not applicable to a housing development project that does not receive project-based Section 8 rental subsidy.)

**HOUSING DEVELOPMENT PROJECT** — A development or project which meets the qualifications of and is eligible for a service charge payment in lieu of taxes under the Act and this section.

**HUD** — The Department of Housing and Urban Development of the United States government.

**LOW-INCOME PERSONS AND FAMILIES** — Persons and families qualified pursuant to applicable HUD or Authority regulations, rules, or adopted program guidelines as being eligible to move into a housing development project governed by this section.

**MORTGAGE LOAN** — A loan that is federally aided (as defined in Section 11 of the Act), or a loan or grant made or to be made by the Authority, for the construction, rehabilitation, acquisition and/or permanent financing of a housing development project, that qualifies for a payment in lieu of taxes pursuant to the Act and this section and is secured by a mortgage on the housing project.

**SPONSOR** — Any persons or entities that receive or assume a mortgage loan.

**UTILITIES** — Charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants of a housing development governed by this section and which are paid by a housing development project sponsor.

- C. Class of eligible housing development projects. It is determined that the class of housing development projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be those housing development projects that are for persons and families of low income and which are financed with a mortgage loan. Prior to being eligible for tax exemption under this section, each housing development project shall be presented to the City Commission, which shall make a determination by resolution as to whether the proposed project qualifies for exemption and, if so, shall set forth the service charge payment in lieu of taxes to be made for that project. The service charge payment in lieu of taxes for the project set by the City Commission shall be reflective of the mix of dwelling units intended to be occupied by low-income individuals and families and dwelling units intended to be occupied by other than low-income individuals and families. Projects in which at least 80% of the dwelling units are for persons and families of low income are eligible for a tax exemption and the payment of a service charge in lieu of ad valorem taxes on all dwelling units. Projects in which less than 80% of units are reserved for low-income persons and families are eligible to pay a service charge on the income-restricted units only; for the remaining units, the developer may choose to pay a service charge equivalent to ad valorem taxes on those noneligible units or create a condominium to separate the non-eligible units from the eligible income-restricted tax-exempt units. Documentary evidence must be presented to the City Commission to establish that the project so qualifies for exemption, whether by making available to tenants a program of rent supplements or housing assistance payments, as established and allocated under the rules and regulations of either HUD or the Authority, or both, or the project is being operated in accordance with the requirements of the Housing Development Grant Program, or otherwise qualifies by law.
- D. Establishment of annual service charges. The housing development projects and the property on which they are or will be located that are within the class of housing development projects for tax exemption pursuant to this section shall be eligible for exemption from all ad valorem property taxes. The City acknowledges that the sponsor, and the Authority, in the case of a sponsor receiving an Authority-financed mortgage loan, or the sponsor and the mortgage lender, in the case of a sponsor receiving a federally aided mortgage loan, have conditioned the economic feasibility of the housing development project in reliance upon the enactment and continuing effect of this section, as from time to time amended, and the qualification of the housing development project for exemption from all ad valorem property taxes and a service charge payment in lieu

- § 35-4 of taxes as established in this section. Therefore, the City, in consideration of the sponsor's offer, subject to receipt of a mortgage loan to construct or rehabilitate, own and operate said housing development project, agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. The annual service charge payment shall be in an amount equal to a City Commission determined percentage of the annual shelter rents and contract rents actually collected by the housing development project sponsor during each calendar year or other agreed-upon annual period as determined by the City Commission in a resolution to be adopted pursuant to this section for each project. § 35-4
- E. Limitation on the payment of annual service charge. Except as otherwise provided in this section, the service charge to be paid each year in lieu of taxes for the part of an otherwise tax-exempt housing development which is occupied as commercial (nonresidential) space or by other than low-income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the project were not tax-exempt.
- F. Manner of payment in lieu of taxes. Except as otherwise provided in this section, the annual service charge payment in lieu of taxes shall be based on the annual shelter rents or contract rents for the preceding calendar year or other agreed-upon annual period based on the audited financial report for that year as provided by the sponsor to the City. The annual service charge payment in lieu of taxes shall be paid to the City on or before 120 days after the close of the owner's fiscal year. Any annual service charge payment in lieu of taxes or any portion of the annual service charge payment remaining unpaid after 120 days after the close of the owner's fiscal year shall have interest of 1% per month, together with a penalty fee of 4%, added to it, provided that the total penalty fee shall not exceed 4% of the total service charge payment in lieu of taxes due and payable. The annual service charge payment in lieu of taxes shall be accompanied by an estimate of the shelter rents or contract rents for the current calendar year and a certified annual audit of the gross rentals and utility costs of the project for the preceding calendar year along with documentation regarding how the sponsor has calculated the amount of the annual service charge payment it is submitting to the City. The sponsor shall also provide the City with any other audited financial statements or other documentation as may be necessary to establish compliance with this section.
- G. Contractual effect of section. Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract shall be deemed effected between the City of Kalamazoo and the sponsor, with the Authority as third-party beneficiary, to provide a tax exemption and accept service charge payments in lieu of taxes as previously described by this section upon the adoption of a project-specific resolution as provided by this section.
- H. Duration. Unless indicated otherwise in the resolution adopted by the City Commission, the property tax exemption provided under this section shall commence at the beginning of the tax year immediately after the property has satisfied all the requirements under the Act. If, at the inception of the exemption provided by this section, the property does not generate any annual shelter rents during one or more calendar years or other agreed-upon annual period, the service charge payment shall equal the amount of regular ad valorem taxes that would have been paid for the property until the property begins to generate annual shelter rents or contract rents. Unless indicated otherwise in the resolution adopted by the City Commission, the duration of the property tax exemption provided under this section shall continue so long as the Authority-aided or federally aided mortgage loan remains outstanding and unpaid, provided that construction or rehabilitation of the housing development commences within one year from the effective date of the resolution. In the event that the housing development project sponsor fails to timely pay the annual service charge in lieu of taxes, the City Commission, by resolution, may, in addition to any other means available under law, elect to: 1) employ collection procedures that are in accordance with the provisions of the General Property Tax Act (1893 Public Act 206, as amended, MCLA § 211.1 et seq.); or 2) direct the City Attorney to commence an action in a Kalamazoo County court of competent jurisdiction to collect any outstanding past-due service charge payments and/or seek an order terminating the contract and revoking the tax-exempt status of the project due to the breach of the acknowledged contract between the City and sponsor created pursuant to the provisions of this section. If the tax-exempt status of the housing project is revoked, the housing development project

§ 35-4 shall then be placed on the tax rolls on the next December 31 following the revocation of the tax-exempt status of the project. If a housing development project is added to the tax rolls and any service charge payment remains unpaid at the time the housing development project is added to the tax rolls, the City officials in charge of the collection thereof shall certify to the tax assessing officer of the City the fact of such delinquency, whereupon such charge, together with any accumulated interest and penalty fees, shall be entered upon the tax rolls as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises. § 35-5

- I. Severability. Should any section, clause or provision of this section be declared by any court to be invalid, the same shall not affect the validity of this section as a whole or any part thereof other than the part so declared to be invalid.
- J. Inconsistent ordinances. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this section are repealed to the extent of such inconsistency or conflict.
- K. Savings clause. The adoption of amendments to this section shall not repeal or revoke the tax-exempt status and payment in lieu of taxes previously established for any other housing development by the City Commission.

**§ 35-5. Penalty and collection fees for delinquent taxes. [Added 12-26-1979 by Ord. No. 1182; amended 4-7-1980 by Ord. No. 1194]**

Pursuant to § 87 of the City Charter, all taxes due and remaining unpaid after the last of the month in which such installment shall be payable shall have a penalty of 1% per month, together with a collection fee of 4% added to them; provided that the total collection fee shall not exceed 4% of the total tax due and payable on the first day of July next preceding.<sup>147</sup>

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**147. Editor's Note: Former Art. II, Kalamazoo Downtown Development Authority Tax Increment Financing Plan and Development Plan, adopted 12-5-1988 by Ord. No. 1450, as amended, which immediately followed, was repealed 5-20-2019 by Ord. No. 1987. Ordinance No. 1987 also stated that Ord. No. 1679, which amended Ord. No. 1450, was repealed except to the extent that the legal description and boundaries of the Downtown Development Area (identified as Exhibits 1 and 2, respectively, in the Restated Plan that was attached as Exhibit A to Ord. No. 1679) remain full force and effect.**

**Chapter 36**  
**TRAFFIC CODE**





**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

- Department of Public Safety — See § 2-291 et seq.
- Placing advertising matter in or on parked vehicles — See § 3-4.
- Throwing advertising matter from vehicles — See § 3-5
- Animals — See Ch. 7.
- Operation of trucks and machinery in connection with building moving or wrecking operations — See § 9-255.
- Payment to City for blocking parking meters during building moving or wrecking operations — See § 9-256.
- City bus system — See Ch. 11.
- Permission not to be granted for location of filling station in such manner as to constitute a traffic hazard — See § 14-2.
- Fire prevention and protection — See Ch. 15.
- Kalamazoo Mall — See Ch. 19.
- Operation of vehicles in Kalamazoo Mall — See § 19-5.
- Regulation of noise from vehicles — See §§ 21-8, 21-10 et seq.
- Sounding vehicle horn or warning device — See § 21-18.
- Mufflers — See § 21-19.
- Littering — See § 22-10.
- Inoperable or wrecked motor vehicles and vehicle parts — See § 22-13.
- Breaking into parking meters — See § 22-26.
- Being drunk or under influence of drugs in public — See § 22-40.
- Police — See Ch. 26.
- Railroads — See Ch. 27.
- Railroad crossing signs — See § 27-2.
- Right-of-way of Fire Department vehicle at railroad crossings — See § 27-5.
- Trains crossing fire hose — See § 27-6.
- Streets — See Ch. 33.
- Removal of street warning barriers or signals — See § 33-16.
- Regulation of skateboards, roller skates, coasters, scooters, etc. — See § 33-22.
- Vehicles for hire — See Ch. 37.
- City taxicab driver's license — See § 37-30 et seq.
- Required construction and equipment for taxicabs — See § 37-51.
- Use of liquor or drugs by taxicab drivers while on duty — See § 37-94.
- Standing of taxicabs on streets — See § 37-114.
- Wreckers — See Ch. 40.
- Zoning Ordinance — See App. A.



**STATUTORY REFERENCES**

**Michigan Vehicle Code — See MCLA §§ 257.1 et seq.**

**Snowmobiles — See MCLA § 324.82101 et seq.**

**Authority of City to regulate the operation of snowmobiles — See MCLA § 324.82124.**

**Parking Violations Bureau — See MCLA § 600.8395.**



ARTICLE I  
In General

**§ 36-1. Adoption of the Michigan Motor Code; exceptions. [Traf. Code § 95; amended 3-19-2001 by Ord. No. 1715; 10-6-2003 by Ord. No. 1760; 6-18-2007 by Ord. No. 1829]**

- A. The Michigan Vehicle Code, 1949 PA 300, MCLA § 257.1 et seq., as amended, is hereby adopted by reference. Any future amendments to the Michigan Vehicle Code shall be considered to be automatically adopted pursuant to this section unless specifically provided otherwise by the Kalamazoo City Code.
- B. Any reference in the Michigan Vehicle Code to "local authorities" shall mean the City of Kalamazoo.
- C. The City Clerk shall publish the ordinance as required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the code is available for public inspection at the office of the Clerk.
- D. The penalty provisions contained in the Michigan Vehicle Code are also adopted by reference, except that the City may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days and/or a fine of \$500.

**§ 36-2. Definitions. [Traf. Code § 92]**

- A. Words and phrases used in this chapter shall have their usual and customary meaning; provided, however, that all words defined in the Michigan Vehicle Code, Act 300, Public Acts of 1949 (MCLA § 257.1 et seq.), as amended, and used in this chapter, shall have the meanings specified therein; provided, further, that the following words and phrases used in this chapter shall have the meanings respectively ascribed to them in this section:

ALLEY — Any minor thoroughfare, opened to public use, for purpose of ingress and egress to service adjacent buildings.

BUS STAND — A fixed area in the roadway parallel and adjacent to the curb to be occupied exclusively by buses for layover in operating schedules or waiting for passengers.

CENTER or CENTERLINE — A continuous or broken line marked upon the surface of a roadway by paint or otherwise to indicate each portion of the roadway allocated to traffic proceeding in the two opposite directions, and if the line is not so painted or otherwise marked, it is an imaginary line in the roadway equally distant from the edges or curbs of the roadway.

CROSSWALK —

- (1) That part of a roadway at an intersection, included within the connections of the lateral lines of the sidewalks, on opposite sides of the highway and measured from curb to curb.
- (2) That part of a roadway at an intersection included within the extension of the lateral lines of a sidewalk where there is a sidewalk on only one side of a street, and measured from curb to curb.
- (3) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

CURB LOADING ZONE — A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

FREIGHT CURB LOADING ZONE — A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight.

HOLIDAYS — Where used in this chapter or on official signs erected by authorized official agencies, the term "holidays" shall, in addition to Sundays, mean the following legal holidays: New Year's Day, Memorial

§ 36-2 Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, or the next secular day following if such holiday falls on Sunday. § 36-4

**OFFICIAL TIME STANDARD** — Whenever certain hours are named, they shall mean standard time or daylight saving time, as may be in current use in this City.

**PARKING** — Allowing a vehicle to remain stationary; vehicles parked in a restricted area which shall be moved not more than 500 feet during the limited parking period shall be deemed to have remained stationary. The distance of movement shall be measured along the center line of the street or streets of parking locations between two fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the current parking location nearest to the previous parking location and from the previous parking location nearest to the current parking location. **[Amended 8-7-2006 by Ord. No. 1810]**

**PARKING METER ZONE** — An area adjacent to a parking meter set aside for the exclusive use of vehicles upon the deposit of a coin of United States currency in the parking meter as specified thereon.

**PASSENGER CURB LOADING ZONE** — An area adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

**SIGN** — A symbol or notice representing words, letters, numbers or marks conveying an intelligible meaning or direction, including, where pertinent in this chapter, center lines, lane lines, curb paintings and similar representations of meanings.

**STOP, STOPPING or STANDING** — When prohibited, means any stopping or standing of a vehicle, whether occupied or not, other than the temporary stopping of a passenger vehicle for the purpose of and while actually engaged in picking up and discharging passengers, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

**TAXICAB** — A licensed public motor vehicle for hire designed and constructed to seat not more than seven persons and operating as a common carrier on call or demand.

**TAXICAB STAND** — A fixed area in the roadway parallel and adjacent to the curb set aside for taxicabs to stand or wait for passengers.

**§ 36-3. Uniformity of application and interpretation. [Traf. Code § 94]**

It is the purpose of this chapter that its provisions should adopt and make applicable to the City the laws of the state relating to the subjects for which provision is made herein, in order that uniformity of application and interpretation may be attained. No application or interpretation of this chapter, regardless of the wording of any section of this chapter, shall deviate from that uniformity of application and interpretation between comparable provisions of this chapter and the laws of the state, except where such deviation is required by the differing jurisdictional or administrative requirements, or by the clear purport of the words used.

**§ 36-4. Traffic Engineer generally. [Traf. Code § 82; amended 9-7-1982 by Ord. No. 1268; 2-21-1994 by Ord. No. 1568]**

- A. There is hereby created a position of Traffic Engineer, who shall be appointed by the City Manager. The Traffic Engineer shall exercise the powers and duties provided in this chapter in a manner consistent with prevailing traffic safety practices and in the best interests of the City. In the absence of such appointment, such duties and authority shall be vested in the Chief of Public Safety or such other officials as are designated by the City Manager.
- B. It is the general duty of the Traffic Engineer to plan and determine the installation and proper timing and maintenance of traffic-control devices; to plan and direct the operation of traffic on the streets of this City, including parking areas; to conduct investigations of traffic conditions; to cooperate with the Traffic Board and other municipal and state officials; make improvements in streets; and to carry out the powers and duties imposed by this chapter and such other duties as may be assigned.

- § 36-4
- § 36-7
- C. The Traffic Engineer is hereby authorized to prohibit or restrict the stopping, standing or parking of vehicles on any street of this City and to erect signs giving notice thereof, where, in his opinion, such stopping, standing or parking of vehicles interferes with the movement of traffic thereon.
- D. The Traffic Engineer may prohibit or restrict the stopping, standing, or parking of vehicles and may direct the erection of signs giving notice thereof in the following places:
- (1) On City streets and parking lots;
  - (2) On public or private property when, after consultation with the Chief of the Department of Public Safety, he has designated the same as a fire lane. Fire lane signs erected on private property shall be at the expense of the owners or persons in charge of the property.

**§ 36-5. Content, filing and posting of orders of Traffic Engineer. [Traf. Code §§ 83s, 88]**

- A. All orders of the Traffic Engineer promulgated under this chapter shall be in writing and shall be filed with the City Clerk, with a notation thereon as to the date of City Commission consent, when applicable.
- B. The City Clerk shall post all orders of the Traffic Engineer for a period of seven days following the promulgation thereof in the Clerk's office and in two other public places and keep a record of such posting.

**§ 36-6. Establishment and composition of Traffic Board; duties and responsibilities. [Traf. Code § 83p; amended 4-19-1982 by Ord. No. 1256; 2-21-1994 by Ord. No. 1567]**

- A. There is hereby created a Traffic Board, which shall consist of the following individuals:
  - (1) The City Manager or his/her designee.
  - (2) The Chief of the Department Public of Safety or his/her designee.
  - (3) The Director of the Department of Public Works or his/her designee.
  - (4) The Traffic Engineer.
  - (5) The City Engineer.
  - (6) The City Planner.
- B. The Traffic Board shall have the power upon filing written orders with the City Clerk, to:
  - (1) Establish and enforce temporary or experimental regulations, consistent with this chapter, to cover emergencies or special conditions, provided signs, signals, public safety direction, or other means of notice are provided.
  - (2) Establish permanent, temporary and experimental regulations providing for one-way streets, parking regulations, loading zones and other conveniences for the movement of traffic and parking of vehicles.
- C. The City Commission may override any decision by the Traffic Board or the Traffic Engineer by ordinance, motion, or resolution. Any order promulgated by the Traffic Engineer or the Traffic Board shall have the same effect, and may be enforced in the same manner, as any other provision of the Traffic Code of the City.

**§ 36-7. General duties of police or public safety officers with respect to traffic. [Traf. Code § 86a]**

It shall be the duty of the Chief of Public Safety, with such aid as may be rendered by other members of the Department of Public Safety, to enforce the provisions of this chapter and the state vehicle laws applicable to traffic in this City; to make arrests for traffic violations; to assist in the prosecution of persons charged with such violations; to investigate accidents; to cooperate with the Traffic Engineer and other officials of the City in the

§ 36-7 administration of this chapter and in developing ways and means to improve traffic conditions; and to carry out those duties specially imposed by this chapter and other ordinances of the City. § 36-11

**§ 36-8. Direction of traffic. [Traf. Code §§ 87a, 89; amended 10-17-1988 by Ord. No. 1448; 10-21-1996 by Ord. No. 1624]**

- A. Officers of the Department of Public Safety, or such special officers as are assigned by the Chief of Public Safety, are hereby authorized to direct all traffic by voice, hand or signal in conformance with this chapter; provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Department of Public Safety may direct traffic as conditions may require, notwithstanding the provisions of this chapter.
- B. Members of the Department of Public Safety, when at the scene of a fire or other emergency or to expedite traffic or to safeguard pedestrians, may direct or assist the police or public safety officers, as applicable, in directing traffic thereat or in the immediate vicinity.
- C. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or public safety officer, or other member of the Department of Public Safety pursuant to this chapter.
- D. Failure to stop on the direction of a public safety officer.
  - (1) A driver of a motor vehicle who is given by hand, voice, emergency light, or siren a visual or audible signal by a public safety officer, acting in the lawful performance of his or her duty, directing the driver to bring his or her motor vehicle to a stop, and who willfully fails to obey that direction by increasing the speed of the motor vehicle, extinguishing the lights of the motor vehicle, or otherwise attempting to flee or elude the officer, is guilty of a misdemeanor, and shall be punished by imprisonment for not less than 30 days nor more than 90 days, and in addition, may be fined not more than \$500 and may be ordered to pay the costs of the prosecution. The court may depart from the minimum term of imprisonment authorized under this subsection if the court finds on the record that there are substantial and compelling reasons to do so and if the court imposes community service as a part of the sentence.
  - (2) Subsection D(1) does not apply unless the public safety officer giving the signal is in uniform, and the vehicle driven by the officer is identified as an official public safety or police vehicle.

**§ 36-9. Enforcement of chapter on private roads. [Amended 2-10-1975 by Ord. No. 1044]**

Notwithstanding any other provision of law, a police officer may enter upon a private road to enforce the provisions of this chapter.

**§ 36-10. Vehicles prohibited on City-owned property not specifically set aside for such use; exceptions. [Amended 1-22-1974 by Ord. No. 1040]**

- A. No motor vehicle, motorcycle or pedal-powered contrivance or device shall be operated, parked or allowed to stand on any City-owned or operated property not specifically set aside for such use; provided that, the City, in its discretion, may allow such operation or parking for special events, when such permission is requested in writing by an organization or individual.
- B. This section shall not apply to bicycles or children's tricycles.

**§ 36-11. Report when vehicle moved without knowledge and consent of owner. [Traf. Code § 87e]**

Any person who shall move or remove any motor vehicle to or from any place within the City, without the knowledge and consent of the owner of such vehicle, shall report the date and time of such movement, the make and year of manufacture of the vehicle, the state of issue of the registration plates thereon, and the year, letters and numerals on the registration plates, to the Police Department, within two hours of completion of such movement.



§ 36-11

When such moving or removing shall be upon the orders of a police officer, such report shall not be required.

§ 36-17

**§ 36-12. Vehicle license plate and registration certificate. [Traffic Code §§ 30, 31; amended 3-31-1986 by Ord. No. 1376]**

- A. A person shall not operate, nor shall a person knowingly permit to be operated, upon the streets of this City a vehicle required to be registered as provided in the Michigan Vehicle Code, MCLA § 257.1 et seq., MSA § 9.1801 et seq., as amended, unless there shall be attached to and displayed on the vehicle, when and as is required by said Michigan Vehicle Code, a valid registration certificate and registration plate or plates issued for the vehicle by the department of state for the current registration year except as otherwise expressly provided in the Michigan Vehicle Code.
- B. Upon receipt of a registration certificate from the department of state, the owner shall write his or her signature thereon with pen and ink in the space provided. A registration certificate shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving or in control of the vehicle, who shall display the registration certificate upon demand of a police officer or public safety officer. A registration plate issued for a vehicle shall be securely fastened to the rear of the vehicle in a position which is clearly visible. The plate shall be maintained in a clearly legible condition and free from foreign materials, names plates, insignias or advertising devices that obscure or partially obscure the registration information.

**§ 36-13. Obstruction of driver's view or control of driving mechanism. [Traf. Code § 52a-d]**

- A. No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
- B. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.
- C. No person in a bus, trolley coach or other transit vehicle shall stand beyond the safety line, which shall be inlaid, constructed in the floor or painted upon the floor, so as to interfere with or obstruct the driver's view to the front or sides, or to obstruct the view of signals he may give to drivers of other vehicles.
- D. No vehicle shall be operated upon any street, unless the driver's vision through any required equipment is normal.

**§ 36-14. Throwing or dropping objects from or at vehicles. [Traf. Code § 44A]**

It shall be unlawful for any person to cause any object or substance to be thrown from any vehicle, at any other vehicle, pedestrian, traffic signal, sign or street light, or to cause any object or substance to be dropped from any vehicle upon the roadway, parkway, sidewalk or private property adjacent to any roadway, or to aid, assist or abet another so to do. It shall likewise be unlawful for any person to throw any object or substance at any vehicle.

**§ 36-15. Designation of streets and alleys restricted to commercial, service and emergency vehicles. [Traf. Code § 83t]**

The Traffic Engineer is authorized, with the consent of the City Commission by motion, to determine and designate streets or alleys restricted to commercial, service and emergency vehicles and to install signs accordingly, and no person shall operate a vehicle on such streets or alleys in violation thereof.

**§ 36-16. Establishment of pedestrian, special event and play streets. [Traf. Code § 83i]**

The Traffic Engineer is hereby authorized, with the consent of the City Commission by motion, to establish any street or part thereof as a pedestrian, special event or play street, when he shall find that the public safety or convenience is best served thereby, and he shall install signs or barricades warning drivers and others of the same.

§ 36-17

§ 36-24

**§ 36-17. Use of skis, toboggans or sleds on streets. [Traf. Code § 36]**

No person shall use the streets for traveling on skis, toboggans, coasting sleds or similar devices, except on portions of such streets officially set aside for such use and adequately roped off or otherwise marked for such purpose.

**§ 36-18. Use of skates and toy vehicles on roadway. [Traf. Code § 47]**

No person upon roller skates, or riding in or by means of any toy vehicle or similar device, shall go upon any roadway, except while crossing a street on a crosswalk, and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as provided for in § 36-17.

**§ 36-19. Clinging to vehicles. [Traf. Code § 48]**

No person shall cling to a motor vehicle in operation and no person riding upon any bicycle, motorcycle, motor-driven cycle, coaster, sled, roller skates or any other mechanism shall attach the same or himself, directly or indirectly, to any vehicle being operated upon any street, except that reasonably necessary towing operations, if conducted with care, are exempted from this provision.

**§ 36-20. Boarding or alighting from moving vehicles. [Traf. Code § 49]**

No person shall board or alight from any vehicle while such vehicle is in motion.

**§ 36-21. Opening vehicle door on traffic side. [Traf. Code § 54a]**

No person shall open the door of a motor vehicle on the side available to moving traffic, unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

**§ 36-22. Application of chapter to persons riding animals or driving animal-drawn vehicles. [Traf. Code § 36]**

Every person riding animals or driving any animal drawing a vehicle upon a street shall be subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions which, by their nature, can have no application; provided that, persons riding or leading animals on or along any street shall ride or lead such animals on the left side of the street facing approaching traffic.

**§ 36-23. Application of chapter to persons, vehicles, etc., engaged in street work. [Traf. Code § 90]**

The provisions of this chapter shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street, but shall apply to such persons and vehicles when traveling to or from such work. The provisions of this chapter governing the size and width of vehicles shall not apply to vehicles owned by public highway authorities when the vehicles are proceeding to or from work on public highways.

**§ 36-24. Exemptions for drivers of authorized emergency vehicles. [Traf. Code § 90]**

- A. The driver of any authorized emergency vehicle, when responding to an emergency call, but not while returning therefrom, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- B. The driver of an authorized emergency vehicle may:
  - (1) Park or stand, irrespective of the provisions of this chapter.
  - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe

§ 36-24

operation.

§ 36-27

- (3) Exceed the prima facie speed limits so long as he does not endanger life or property.
- (4) Disregard regulations governing direction of movement or turning in specified directions.

C. The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of the vehicle, while in motion, sounds an audible signal, by bell, siren, air horn or exhaust whistle, as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a flashing, oscillating or rotating red or blue light visible under normal atmospheric conditions from a distance of 500 feet in a 360° arc, except where it is deemed advisable not to equip a police vehicle operating as an authorized emergency vehicle with a flashing, oscillating or rotating light which is visible in a 360° arc. In such cases, a police vehicle shall display a flashing, oscillating or rotating red or blue light which is visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle.

**§ 36-25. Violations generally. [Traf. Code § 96; amended 7-16-1979 by Ord. No. 1167; 9-17-1979 by Ord. No. 1174; 3-31-1986 by Ord. No. 1376; 1-12-1987 by Ord. No. 1399; 12-14-1987 by Ord. No. 1427]**

- A. All violations under Chapter 36 of the Kalamazoo City Code of Ordinances (i.e., the Traffic Code) shall be processed as civil infractions in accordance with the Michigan Vehicle Code, being 1949 PA 300, as amended, except for the following sections of traffic violations: §§ 36-8, 36-12A, 36-14, 36-58D, E and F, 36-81, 36-95, 36-109.1A and B, 36-126A, 36-127, 36-129, 36-130, 36-150, 36-151, 36-197, 36-198, 36-199, 36-200, 36-201, 36-202, 36-203, 36-239, 36-240, 36-241, 36-242, 36-243, 36-244 and 36-246 which remain misdemeanors punishable by a fine of not more than \$100 or imprisonment for not more than 90 days, or both, in the discretion of the court, unless another penalty is specifically provided.
- B. Any person found to have committed a civil infraction may be ordered to pay a civil fine of not more than \$100 and costs, in accordance with MCLA § 257.907 of the Michigan Vehicle Code.

**§ 36-26. Parents and guardians not to authorize or permit violations by children or wards. [Traf. Code § 89]**

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

**§ 36-27. Traffic citations and complaints generally. [Traf. Code § 86, b, d, f]**

- A. The Chief of Police shall be responsible for the issuance of books of traffic citation or complaint forms and shall maintain, or cause to be maintained, a record of every such book and each set of citation or complaint forms contained therein issued to the individual members of the Police Department and shall require and retain a receipt for every book so issued. All forms for records of violations and notices of violations, which shall include traffic citations issued by police officers, shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms and such records, notices and reports shall be public records.
- B. Except when officially authorized or directed under state law to the contrary, a police officer who halts a person for any violation of this chapter or the motor vehicle laws of the state, other than for the purpose of giving him a warning or warning notice, and does not take such person into custody under arrest, shall take the name, address and operator's license number of such person, the registered number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him in writing a traffic citation.
- C. Every police officer, upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of this chapter shall submit the original and copies of the citation and complaint, if any, to the Chief of Police or his authorized agent.

- § 36-27
- § 36-40
- D. The Chief of Police shall require the return to him of each traffic citation and all copies of the corresponding complaint thereof, if any, which have been spoiled or upon which any entry has been made and has not been issued to an alleged violator.
  - E. The Chief of Police shall maintain a file of one duplicate copy of the citation or complaint corresponding to each traffic citation issued.
  - F. The Chief of Police shall also maintain or cause to be maintained, in connection with every traffic citation issued by a member of the Police Department, a record of the disposition of the charge.

**§ 36-28. Unlawful disposition, alteration, cancellation, etc., of traffic citation or complaint. [Traf. Code § 86b; amended 7-16-1979 by Ord. No. 1167]**

- A. It shall be unlawful and official misconduct for any member of the Police Department or other officer or public employee to dispose of, alter or deface a traffic citation or any copy of the corresponding complaint, or the record of the issuance or disposition of any traffic citation, complaint or warrant, in a manner other than as allowed by law.
- B. It shall be unlawful for any person to cancel or solicit the cancellation of any traffic citation of complaint issued to an alleged violator other than as allowed by law.

**§ 36-29. Annual traffic report. [Traf. Code § 86f]**

- A. The Police Department shall annually prepare a traffic report which shall be submitted to the City Commission. Such report shall contain information on traffic matters in the City as follows:
  - (1) The number of traffic accidents, the number of persons killed, the number of persons injured and other pertinent traffic accident data.
  - (2) The number of traffic accidents investigated and other pertinent data on the safety activities of the police.
  - (3) Plans and recommendations for future traffic enforcement activities.

**§ 36-30. (Reserved)**

**§ 36-31. (Reserved)**

**§ 36-32. (Reserved)**

**§ 36-33. (Reserved)**

**§ 36-34. (Reserved)**

**§ 36-35. (Reserved)**

**§ 36-36. (Reserved)**

**§ 36-37. (Reserved)**

**§ 36-38. (Reserved)**

**§ 36-39. (Reserved)**

§ 36-40  
§ 36-40. (Reserved)

§ 36-42

§ 36-41. (Reserved)

§ 36-42. (Reserved)



ARTICLE II  
**Vehicle Equipment, Size and Load**

**§ 36-43. Operation of unsafe or improperly equipped vehicle. [Traf. Code § 53a]**

No person shall drive or move, and no owner shall cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which is in such unsafe condition or is so loaded as to endanger any person or which does not contain those parts or is not at all times equipped with such equipment, in proper condition and adjustment, as is required by this article, or which is equipped in any manner in violation of this article.

**§ 36-44. Authority of police to inspect vehicle and arrest driver in case of defective equipment. [Traf. Code § 87b; amended 7-16-1979 by Ord. No. 1167]**

Any police officer is hereby authorized, on reasonable grounds shown, to stop any motor vehicle and inspect the same, and if any defects are found, to issue the appropriate civil or criminal citation or arrest if permitted by law.

**§ 36-45. Lights generally. [Traf. Code § 53c]**

- A. Every vehicle upon a street within this City at any time from a half hour after sunset to a half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the street at a distance of 500 feet ahead, shall display lighted lamps and illuminating devices, as hereinafter respectively required in this article for different classes of vehicles. When lighted lamps and illuminated devices are required by law, no vehicle shall be operated upon any street of this City with only the parking lights illuminated on the front of the vehicle.
- B. Whenever a requirement is declared in this article as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in Subsection A of this section, upon a straight, level, unlighted street under normal atmospheric conditions, unless a different time or condition is expressly stated.
- C. Whenever a requirement is declared in this article as to the mounted height of lamps or devices, it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands, when such vehicle is without a load.

**§ 36-46. Maximum projection of certain lights.**

Any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps or flashing front direction signals, which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

**§ 36-47. Head lamps and auxiliary driving lamps — Generally. [Traf. Code § 53c]**

- A. Every motor vehicle, other than a motorcycle or motor-driven cycle, shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this article.
- B. Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this article.
- C. Every head lamp upon every motor vehicle, including every motorcycle, shall be located at a height, measured from the center of the head lamp, of not more than 54 inches nor less than 24 inches above the level surface upon which the vehicle stands.

- § 36-47
- D. Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than 300 candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time, when upon a street. § 36-50
- E. Any motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front at a height not less than 24 inches above the level surface on which the vehicle stands. Every such auxiliary driving lamp shall meet the requirements and limitations set forth in this article.

**§ 36-48. Same — Multiple beam.**

- A. Except as provided in § 36-49, the head lamps, or the auxiliary driving lamps, or combinations thereof, on motor vehicles shall be so arranged that selection may be made between distributions of light projected to different elevations, subject to the following requirements and limitations:
- (1) Head lamps shall in all cases emit a white light. Auxiliary lamps may emit either a white or amber light.
  - (2) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.
  - (3) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead, and under any condition of loading, none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.
  - (4) Every motor vehicle, except motorcycles and motor-driven cycles, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator as required by state law [MSA § 9.2399; MCLA § 257.699]. Such indicator shall be lighted whenever the uppermost distribution of light from the headlamps is in use and shall not otherwise be lighted. Such indicator shall be so designed and located that, when lighted, it will be readily visible without glare to the driver of the vehicle so equipped.
- B. Whenever a motor vehicle is being operated on a highway or shoulder adjacent thereto during the times specified in § 36-45, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle; provided, however, whenever the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light specified in Subsection A(3) above shall be deemed to avoid glare at all times, regardless of road contour and loading.

**§ 36-49. Same — Single beam.**

- A. Head lamps arranged to provide a single distribution of light not supplemented by auxiliary driving lamps shall be permitted on motor vehicles, as provided by state law [MSA § 9.2401; MCLA § 257.701], in lieu of multiple-beam road-lighting equipment specified in § 36-48, if the single distribution of light complies with the following requirements and limitations:
- (1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall, at a distance of 25 feet ahead, project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance 75 feet ahead.
  - (2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet.



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**§ 36-50. Same — Exceptions for slow moving vehicles.**

Any motor vehicle may be operated under the conditions specified in § 36-45, when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects 75 feet ahead, in lieu of the lamps required in § 36-48 or 36-49; provided, however, that at no time shall it be operated at a speed in excess of 20 miles per hour.

**§ 36-51. Same—Special requirements for motor-driven cycles.**

- A. The head lamp or head lamps upon every motor-driven cycle may be of the single beam or multiple beam type, but in either event shall comply with the requirements and limitations as follows:
- (1) Every head lamp on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than 100 feet, when the motor-driven cycle is operated at any speed less than 25 miles per hour, and at a distance of not less than 200 feet, when the motor-driven cycle is operated at a speed of 25 or more miles per hour.
  - (2) In the event the motor-driven cycle is equipped with a multiple beam head lamp or head lamps, the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in § 36-48A(2), and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light, as set forth in § 36-48A(3).
  - (3) In the event the motor-driven cycle is equipped with a single beam lamp or lamps, said lamp or lamps shall be so aimed that, when the vehicle is loaded, none of the high-intensity portion of light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes.

**§ 36-52. Rear lamps. [Traf. Code § 53c]**

- A. Every motor vehicle, trailer, semitrailer, pole trailer and any other vehicle which is being drawn in a train of vehicles shall be equipped with at least one rear lamp mounted on the rear, which, when lighted as required by this article, shall emit a red light plainly visible from a distance of 500 feet to the rear.
- B. Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate, with a white light, the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

**§ 36-53. Lighting of vehicles not specifically required to be equipped with lamps.**

All vehicles, including animal-drawn vehicles, not specifically required to be equipped with lamps by the provisions of this article shall, at the times specified in § 36-45, be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of 500 feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 300 feet to the rear.

**§ 36-54. Clearance and marker lamps; reflectors and stop lights.**

- A. Generally. The provisions of this section relating to clearance and marker lamps, reflectors and stop lights shall apply, as stated, to vehicles of the type enumerated herein, when operated upon any street, and such vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in § 36-45, except that clearance and side marker lamps need not be lighted on any vehicle when operated within any municipality where there is sufficient light to render clearly discernible persons and vehicles on the street at a distance of 500 feet.
- B. Required equipment. In addition to other equipment required in this article, the following vehicles shall be equipped as herein stated under the conditions stated in Subsection A above:

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- (1) On every bus or truck, whatever its size, there shall be, on the rear, two red reflectors, one on each side, and one red or amber stop light.
- (2) On every bus or truck 80 inches or more in overall width, in addition to the requirements of Subsection B(1) above:
  - (a) On the front, two clearance lamps, one at each side.
  - (b) On the rear, two clearance lamps, one at each side.
  - (c) On each side, two side marker lamps, one at or near the front and one at or near the rear.
  - (d) On each side, two reflectors, one at or near the front and one at or near the rear.
- (3) On every truck tractor:
  - (a) On the front, two clearance lamps, one at each side.
  - (b) On the rear, one stop light.
- (4) On every trailer or semitrailer having a gross weight in excess of 3,000 pounds:
  - (a) On the front, two clearance lamps, one at each side.
  - (b) On each side, two side marker lamps, one at or near the front and one at or near the rear.
  - (c) On each side, two reflectors, one at or near the front and one at or near the rear.
  - (d) On the rear, two clearance lamps, one at each side, also two reflectors, one at each side, and one stop light.
- (5) On every pole trailer:
  - (a) On each side, one side marker lamp and one clearance lamp, which may be in combination, to show to the front, side or rear.
  - (b) On the rear of the pole trailer or load, two reflectors, one on each side.
- (6) On every trailer or semitrailer weighing 3,000 pounds gross or less, on the rear, two reflectors, one on each side. If any trailer or semitrailer is so loaded or is of such dimensions as to obscure the stop light on the towing vehicle, then such vehicle shall also be equipped with one stop light.
- (7) Every vehicle which has a maximum potential speed of 25 miles an hour, implement of husbandry, farm tractor or special mobile equipment shall be identified with a reflective device as follows:
  - (a) An approximately equilateral triangle in shape, at least 16 inches wide at the base and at least 14 inches in height; with a dark red border, at least 1 3/4 inches wide, of highly reflective beaded material;
  - (b) A center triangle, at least 12 1/4 inches on each side, of yellow-orange fluorescent material.

The device shall be mounted on the rear of the vehicle, broad base down, not less than three feet nor more than five feet above the ground and as near the center of the vehicle as possible. The use of this reflective device is restricted to use on slow moving vehicles specified in this section, and use of such reflective device on any other type of vehicle or stationary object on a street is prohibited.

- (c) On the rear, at each side, red reflectors or reflectorized material visible from all distances within

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500 to 50 feet to the rear, when directly in front of lawful upper beams of headlamps.

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- C. Color of lighting devices. Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color. Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color. All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red or amber, and except that the light illuminating the license plate shall be white.
- D. Mounting. Equipment required by this section shall be mounted as follows:
- (1) Reflectors shall be mounted at a height not less than 20 inches and not higher than 60 inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 20 inches, the reflector at such point shall be mounted as high as that part of the permanent structure will permit.
  - (2) The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.
  - (3) Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this section.
  - (4) Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination, provided illumination is given as required herein with reference to both.
- E. Visibility. Equipment required by this section shall comply with the following:
- (1) Every reflector shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 500 to 50 feet from the vehicle, when directly in front of lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.
  - (2) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the front and rear, respectively, of the vehicle.
  - (3) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the side of the vehicle on which mounted.

#### **§ 36-55. Use of lights when vehicles operated in combination.**

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except tail lamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

#### **§ 36-56. Spot lamps. [Traf. Code §§ 35, 53c]**

Any motor vehicle may be equipped with not to exceed two spot lamps, except that a motorcycle shall not be equipped with more than one spot lamp. Every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the beam will be directed into the eyes of the approaching driver. Spot lamps may not emit other than either a white or amber light.

**§ 36-57. Color of light displayed by lamps or reflectors generally.**

Lamps or reflectors on a vehicle, other than those expressly required or permitted by the provisions of this chapter, shall, if visible from the front, display or reflect a white or amber light; if visible from either side, display an amber light; and if visible from the rear, display or reflect a red light, except as otherwise provided by this article or state law.

**§ 36-58. Fender and running board lamps; backing lights, flashing, oscillating or rotating colored lights.**

- A. A motor vehicle may be equipped with not more than two side cowl or fender lamps, which shall emit an amber or white light without glare.
- B. A motor vehicle may be equipped with not more than one running-board courtesy lamp on each side, which shall emit a white or amber light without glare.
- C. Backing lights of red, amber or white may be mounted on the rear of a motor vehicle, if the switch controlling the light is so arranged that it may be turned on only when the vehicle is in reverse gear. The backing lights, when unlighted, shall be so covered or otherwise arranged as not to reflect objectionable glare in the eyes of drivers of vehicles approaching from the rear.
- D. The use or possession of flashing, oscillating or rotating red, blue or amber lights is prohibited except under the following circumstances:
  - (1) Publicly owned police vehicles shall be equipped with flashing, rotating or oscillating red or blue lights, for use in the performance of police duties.
  - (2) Publicly owned fire vehicles and ambulances available for public use or for use of the United States, the state or any unit thereof, whether publicly or privately owned, shall be equipped with flashing, rotating or oscillating red lights and used as required for safety.
  - (3) School buses shall be equipped with flashing red lights and shall activate the lights only when the school bus is stopped on the highway for the purpose of permitting school children to board or alight therefrom.
  - (4) Private motor vehicles authorized by the department of state police owned by volunteer or paid firemen may be equipped with flashing, rotating or oscillating red lights for use when responding to an authorized emergency call, if the flashing, rotating or oscillating red lights are mounted on the roof section of the vehicle, either as a permanent installation or by means of suction cups or magnets, and are clearly visible in a 360° arc from a distance of 500 feet, when in use.
  - (5) Flashing, rotating or oscillating amber lights, placed in such a position as to be visible throughout an arc of 360°, shall be used by state, county or municipal vehicles engaged in the removal of ice, snow or other material from the highway and in other operations designed to control ice and snow.
  - (6) Vehicles used to perform public utility services, automobile service cars and wreckers, vehicles engaged in authorized highway repair or maintenance, vehicles of peace officers, vehicles operated by rural letter carriers and farm tractors may be equipped with flashing, rotating or oscillating amber lights. The flashing, rotating or oscillating amber lights shall not be activated except in those circumstances that the warning produced by the light is required for public safety.
  - (7) Police vehicles, ambulances and fire vehicles may display a flashing, rotating or oscillating white light in conjunction with an authorized emergency light, as prescribed in this section.
- E. Only police vehicles which are publicly owned shall be equipped with a flashing, oscillating or rotating blue light which, when activated, shall be visible under normal atmospheric conditions from a distance of 500 feet in a 360° arc.

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- F. A person shall not sell, loan or otherwise furnish any flashing, rotating or oscillating blue or red light to any person, except a duly constituted police officer, sheriff, deputy sheriff, volunteer or paid fireman or volunteer ambulance driver of the state, or a county or municipality within the state, or a person engaged in the business of operating an ambulance or ambulance service. § 36-62
- G. This section shall not be construed to prohibit, restrict or limit the use of lights authorized or required under §§ 36-61 and 36-62.

**§ 36-59. Light or flag on projecting load. [Traf. Code § 5]**

Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle, there shall be displayed, at the extreme rear end of the load, at the times specified in § 36-45, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear, such light or lantern to be in addition to the red rear light required upon every vehicle. At any other time, there shall be displayed, at the extreme rear end of such load, a red flag or cloth, not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

**§ 36-60. Lights on parked vehicles.**

Whenever a vehicle is parked or stopped upon a street, whether attended or unattended, during the times mentioned in § 36-45, there shall be displayed upon the left side of such vehicle one or more lamps projecting a white or amber light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle and projecting a red light visible under like conditions from a distance of 500 feet to the rear.

**§ 36-61. Signal lamps or devices.**

- A. Any motor vehicle may be equipped and, when required under this section, shall be equipped with the following signal lamps or devices:
- (1) A stop lamp on the rear which shall emit a red or amber light and which shall be actuated upon application of the service (foot) brake and which may, but need not be, incorporated with a tail lamp.
  - (2) A lamp or mechanical signal device which conveys an intelligible signal or warning to another driver approaching from the rear.
- B. A stop lamp shall be capable of being seen and distinguished from a distance of 100 feet to the rear, both during normal sunlight and at nighttime, and a signal lamp or lamps indicating intention to turn shall be capable of being seen and distinguished during daytime and nighttime from a distance of 100 feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.
- C. All mechanical signal devices shall be self-illuminated when in use at the times mentioned in § 36-45.
- D. No person shall sell or offer for sale or operate on the highways any vehicle manufactured or assembled after January 1, 1955, except those exempted from certificate of title requirements under the provisions of state law, unless it is equipped with mechanical or electrical turn signals meeting the requirements of this section. This subsection shall not apply to any motorcycle or motor-driven cycle.
- E. No person shall sell or offer for sale or operate on the highways any vehicle manufactured or assembled after January 1, 1965, except those exempted from certificate of title requirements under the provisions of state law, unless it is equipped with two rear stop lamps; provided that a motorcycle or motor-driven cycle shall be required to have one rear stop lamp.

Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped, may display such warning in addition to any other warning signals required by this article. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night.

**§ 36-63. Brakes. [Traf. Code § 53d]**

- A. A motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.
- B. A motorcycle or motor-driven cycle, when operated upon a street or highway, shall be equipped with at least two brakes, one on the front wheel and one on the rear wheel, which may be operated by hand or foot.
- C. A trailer or semitrailer of a gross weight of 3,000 pounds or more, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle and designed so as to be applied by the driver of the towing motor vehicle from its cab.
- D. A new motor vehicle, trailer or semitrailer shall be equipped with service brakes upon all wheels of the vehicle, except a motorcycle or motor-driven cycle, and except that a semitrailer of less than 1,500 pounds gross weight need not be equipped with brakes. The provisions of this subsection shall not apply to a trailer or semitrailer owned by a farmer and used exclusively in connection with the farming operations of the farmer and not used for hire. A truck or truck tractor which has three or more axles need not have brakes on the front wheels. A truck or truck tractor which is equipped with at least two steerable axles shall require brakes on one of the steerable axles.
- E. In any combination of motor-driven vehicles, means shall be provided for applying the rearmost trailer brakes, for a trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed.
- F. A motor vehicle and combination of vehicles, except pole trailers, motorcycles and motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power, if failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that, when once applied, they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that

§ 36-63 failure of any one part shall not leave the vehicle without operative brakes. § 36-66

- G. The brake shoes operating within or upon the drums of the wheels of a motor vehicle may be used for both service and hand operation.
- H. A motor vehicle or combination of motor-drawn vehicles shall be capable, at all times and under all conditions of loading, of being stopped, on a dry, smooth, level road free from loose material, within the distances specified below, or shall be capable of being decelerated at a sustained rate corresponding to these distances upon initial application of the service (foot) brake.

	<b>Feet to Stop From 20 Miles Per Hour</b>	<b>Deceleration (feet per second)</b>
Vehicles or combination of vehicles having brakes on all wheels	30	14
Vehicles or combination of vehicles not having brakes on all wheels	40	10.7

- I. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on the opposite side of the vehicle.

**§ 36-64. Brake fluid.**

No person shall have for sale, or sell or offer for sale within the City, for use in motor vehicle brake systems, any hydraulic brake fluid which does not meet the minimum specifications of the society of automotive engineers for heavy duty brake fluid, as prescribed March 1, 1960.

**§ 36-65. Horns and other warning devices. [Traf. Code §§ 53e, 53i]**

- A. A motor vehicle, including a motorcycle or motor-driven cycle, when operated upon a street or highway, shall be equipped with a horn in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than 200 feet, but a horn or other warning device shall not emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall, when reasonably necessary to insure safe operation, give audible warning with his horn, but shall not otherwise use the horn when upon a street or highway.
- B. A vehicle shall not be equipped with, nor shall a person use upon a vehicle, a siren, whistle or bell, except as otherwise permitted in this section.
- C. It is permissible, but not required, that a commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
- D. An authorized emergency vehicle may be equipped with a siren, whistle, air horn or bell capable of emitting sound audible, under normal conditions, from a distance of not less than 500 feet, but the siren shall not be used, except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law. In those cases, the driver of the vehicle shall sound the siren when necessary to warn pedestrians and other drivers of the approach thereof.

**§ 36-66. Mufflers; excessive fumes or smoke. [Traf. Code § 53b]**

- A. Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise or annoying smoke, and no person shall operate on the streets a motor vehicle equipped with a muffler cutout, bypass or similar device, or a device for the purpose of causing flame or smoke to be emitted from a vehicle, except a highway maintenance vehicle.

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B. The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. § 36-70

**§ 36-67. Backfiring devices. [Traf. Code § 53b]**

No person shall introduce any gasoline, foreign material or obstruction into the muffler or exhaust pipe of any motor vehicle which causes or is capable of causing exhaust gases to ignite, burn or flash in any manner or form.

**§ 36-68. Tires. [Traf. Code § 53g]**

- A. A vehicle or special mobile equipment shall not be operated on the streets of this City on metal or plastic track or on tires which are equipped with metal that comes in contact with the surface of the road or which have a partial contact of metal or plastic with the surface of the road, except as provided in this section.
- B. A tire on a vehicle moved on a street shall not have on its periphery a block, stud, flange, cleat, spike or other protuberances, of a material other than rubber, which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the street, and except that it shall be permissible to use tire chains of reasonable proportions upon a vehicle, when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid, and except as provided in Subsections C and D.
- C. A pneumatic tire may have embedded in it wire not to exceed 0.075 inches in diameter, if so constructed that, under no conditions, shall the per cent of metal in contact with the highway exceed 5% of the total tire area in contact with the roadway, except that during the first 1,000 miles of use or operation of any such tire the metal in contact with the highway shall not exceed 20% of such area.
- D. Tires with studs or other traction devices, which conform to the standards prescribed in the rules promulgated by the state department of highways pursuant to state law [MSA § 9.2410; MCLA § 257.710], may be used in the City.
- E. Vehicles driven by a U.S. rural postman and any law enforcement officer, while in the performance of his duties, shall be exempt from the requirements of this section.

**§ 36-69. Wheel flaps.**

Every commercial vehicle, except truck tractors traversing between terminals at a speed not to exceed 25 miles per hour, and every combination of a commercial vehicle and trailer or semitrailer, shall be so constructed or equipped, or so operated, as to bar water or other road surface substances thrown from the rear wheels of such vehicle or combination at tangents exceeding 22 1/2°, measured from the road surface. If a flap-type device is used, it shall not have attached any type of lamp, reflective material or reflecting buttons, nor shall such device extend beyond the maximum legal width of the vehicle.

**§ 36-70. Rearview mirrors. [Traf. Code § 53h]**

- A. No person shall drive a motor vehicle on a street which vehicle is so constructed or loaded as to prevent the driver from obtaining a view of the street to the rear by looking backward from the driver's position, unless such vehicle is equipped with a mirror so located as to reflect to the driver a view of the street to the rear of such vehicle. In addition, all motor vehicles shall be equipped with an outside rearview mirror, on the driver's side, which shall be positioned to give the driver a rear-viewing angle from the driver's side of the vehicle.
- B. Rearview mirrors may be positioned on the helmet or visor worn by the operator of a motorcycle, if the helmet or visor is securely attached to the head of the operator.
- C. Every commercial vehicle of 1/2 ton capacity or more, operating upon a street, shall be equipped with two mirrors, one on each side, so adjusted that the operator shall have a clear view of the street behind such



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commercial vehicle.

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**§ 36-71. Windshields generally.**

- A. A motor vehicle shall not be operated on the streets of the City, unless it is equipped with a windshield of sufficient dimensions to protect the driver and occupants from insects, other airborne objects and highway surface water and debris, when such motor vehicle is moving forward. Farm tractors, other implements of husbandry and historic vehicles are exempt from this requirement.
- B. When a motorcycle or a motor-driven cycle operated on a street in excess of 35 miles per hour is not equipped with a windshield, the operator shall wear goggles, with transparent lenses, or a transparent face shield or eye glasses, which goggles, eye glasses or face shield shall be of shatter resistant material and of sufficient size to protect his eyes against insects, other airborne material and highway surface water and debris.

**§ 36-72. Windshield wiper, defroster and washer. [Traf. Code § 53f]**

- A. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of a vehicle. Such wiper shall be maintained in good working order.
- B. No commercial vehicle licensed as such shall be operated at any time between December 15 and March 15, both dates inclusive, unless it is equipped with a hot air windshield defroster or an electrically heated windshield or such other scientific method that may be devised so long as same is heated and maintained in operable condition at all times.
- C. No motor vehicle manufactured after January 1, 1956, shall be operated, unless it is equipped with a windshield washer maintained in operable condition at all times and capable of cleaning the windshield in such a fashion as to leave the driver with a clear view of the highway or any intersecting highway.

**§ 36-73. Windshields and windows; obstruction of view. [Traf. Code § 52E; amended 6-5-1989 by Ord. No. 1462]**

- A. No person shall operate any motor vehicle with:
  - (1) A window so damaged as to obstruct the operator's view;
  - (2) A window so covered with ice, snow or frost so as to obstruct the operator's view;
  - (3) A sign, poster, nontransparent material or window application upon the front windshield, sidewings or side windows of such vehicle so as to obstruct the operator's view, other than a certificate or other paper required to be so displayed by law;
  - (4) Reflective film or nonreflective film upon or in the front windshield, the side windows immediately adjacent and forward of the operator or front passenger, except that a tinted film may be used along the top edge of the windshield and the side windows or side wings immediately adjacent to the operator or front passenger if the material does not extend more than four inches from the top of the windshield or lower than the shade band, whichever is closer to the top of the windshield;
  - (5) A rear window or side window to the rear of the operator composed of, covered by or treated with a material that creates a total solar reflectance of 35% or more in the visible light range, including a gold or silver reflective film;
  - (6) A dangling ornament or other suspended object, except as is authorized by law, which obstructs the vision of the operator of the vehicle.
- B. A person shall not operate a motor vehicle if operator visibility through the rear window is obstructed, unless

§ 36-73 the vehicle is equipped with two rearview mirrors, one on each side, adjusted so that the operator has a clear view of the highway behind the vehicle. § 36-75

C. This section shall not apply to:

- (1) The use of draperies, louvres or other special window treatment, except those specifically designated in this section, on the rear window or a side window to the rear of the operator if the vehicle is equipped with two outside rearview mirrors, one on each side, adjusted so that the operator has a clear view of the highway behind the vehicle;
- (2) The use of a nonreflective, smoked or tinted glass, nonreflective film, perforated window screen or other decorative window application on the rear window or a side window to the rear of the operator;
- (3) Placement of a necessary certificate or sticker that does not obstruct the operator's clear view of the roadway or any intersecting roadway;
- (4) A vehicle registered in another state, territory, commonwealth of the United States or another country or province;
- (5) A special window treatment or application determined necessary by a physician for the protection of a person who is light- or photo-sensitive if the owner or operator of a motor vehicle has in possession a letter, signed by a physician, indicating the need for the special window treatment or application as a medical necessity. However, the special window treatment or application shall not interfere with or obstruct the operator's clear vision of the highway or an intersecting highway.

**§ 36-74. Safety glass.**

No motor vehicle shall be operated on the streets of the City unless it is equipped with safety glass as required by the Michigan Vehicle Code.

**§ 36-75. Safety belts. [Amended 6-5-1989 by Ord. No. 1461]**

- A. No person shall sell, offer or keep for sale, or install for use in any motor vehicle to be operated in the City any safety belt or safety restraining device, or attachments thereto unless of a type conforming to standards and specifications established by rules and regulations promulgated by the Commissioner of the Michigan State Police.
- B. No private passenger vehicle manufactured after January 1, 1965, shall be offered for sale in this City unless the vehicle is equipped with safety belts for the use of the driver and one other front-seat passenger. All safety belts and bolts and brackets used in the installation of safety belts shall meet the minimum specifications of the Society of Automotive Engineers, as prescribed on April 1, 1963. This subsection shall not apply to trucks, buses, hearses, motorcycles or motor-driven cycles.
- C. Each operator and front-seat passenger of a motor vehicle operated on a street or highway in the City shall wear a properly adjusted and fastened safety belt, except that a child less than four years of age shall be protected as required by state law. Each operator of a motor vehicle transporting a child four years of age or more, but less than 16 years of age, in the front seat of the motor vehicle shall secure the child in a properly adjusted and fastened safety belt.
- D. The requirements of Subsection C shall not apply to an operator or passenger of: A motor vehicle manufactured before January 1, 1965, a bus, a motorcycle, a moped, a motor vehicle if the operator or passenger possesses a written verification from a physician that the operator or the passenger is unable to wear a safety belt for physical or medical reasons, a commercial or United States Postal vehicle which makes frequent stops for the purpose of pickup or delivery of goods or services, a motor vehicle operated by a rural carrier of the United States Postal Service while serving his or her postal route; nor shall the requirements of

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Subsection C apply to the passenger of a school bus.

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- E. Enforcement of this section shall be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another section of the City of Kalamazoo Traffic Code or state law.

**§ 36-76. Markings and fire extinguishers for vehicles transporting explosives.**

- A. Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a City street shall at all times comply with the following provisions:
- (1) Such vehicle shall be marked or placarded on each side and the rear with the word "Explosive" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag, not less than 24 inches square, marked with the word "Danger" in white letters six inches high.
  - (2) Such vehicle shall be equipped with not less than two fire extinguishers, of the type and capacity prescribed by the Commissioner of State Police, filled and ready for immediate use and carried in a place on the vehicle which is most certain to be conveniently accessible under emergency conditions.

**§ 36-77. Television screens not to be visible to driver. [Traf. Code § 52f]**

No person shall drive any motor vehicle equipped with any television viewer, screen or other means of visually receiving a television broadcast, which is located in the motor vehicle at any point forward of the back of the driver's seat or which is visible to the driver while operating the motor vehicle.

**§ 36-78. Unlawful display of official sign or insignia. [Traf. Code § 52g]**

No owner shall display upon any part of his vehicle, or knowingly permit the display thereon, of any official designation, sign or insignia of any public or quasi-public corporation, municipal, state or national department or government subdivision, without authority of such agency.

**§ 36-79. General limitations on size and weight. [Traf. Code § 54]**

No person shall drive or move or cause or knowingly permit to be driven or moved on any street any vehicle of width, height, length or weight in excess of the limitations governing size and weight specified in the Michigan Vehicle Code.

**§ 36-80. Weight restrictions on specific streets. [Traf. Code §§ 50, 83a]**

- A. The Traffic Engineer is hereby authorized to prohibit the use of any roadway by trucks or other commercial vehicles, and to impose limitations as to the weight thereof on designated streets where, in his opinion, the public safety is concerned. Such prohibitions and limitations shall not become effective until notice thereof is given by means of appropriate signs placed on such streets.
- B. When signs are erected giving notice thereof, no person shall operate or stop, stand or park any truck or commercial vehicle with a gross weight in excess of the amounts specified thereon at any time upon any of the streets or parts of streets on which such signs have been posted.

**§ 36-81. Securing loads. [P.&L. Code § PL706; Traf. Code § 45]**

- A. No vehicle shall be driven or moved on any street, unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.
- B. It shall be unlawful for any person, by himself or by his agent or employee, to drive or propel any vehicle loaded above the side or end boards with ashes, sawdust, shavings, bricks, cinders, coal, coke, paper, gravel,

§ 36-81 dirt, leaves, filth or rubbish of any description, along, upon, over or across any street or alley. The box on any vehicle so used shall be constructed with tight, close and sound boards, and in such manner as to prevent the scattering or dropping of the contents thereof on the streets or alleys. In case of carting or hauling along, upon, over or across any street or alley, any shavings, sawdust, dry ashes, mortar, dirt or other substance liable to be blown off by the wind, the same shall be covered and secured. § 36-93

**§ 36-82. Display of owner's name on vehicles carrying certain loads. [P.&L. Code § PL706]**

The owner of any vehicle permanently or temporarily used for carrying earth, ashes, shavings sawdust, coal, coke, cinders, gravel, dirt, leaves, filth, manure or rubbish of any description shall, while so in use, have his name legibly printed or painted on such vehicle, so that the same can be readily seen.

**§ 36-83. Protection of pavement from oil drip or overflow. [P.&L. Code §§ PL702, PL703]**

- A. All oil delivery vehicles, wagons or tanks shall have securely fastened, under the taps or faucets attached thereto, an absolutely oiltight or watertight zinc-lined box or tray into which any drip or overflow shall flow. No such drip or overflow shall be permitted to fall upon any pavement and no receptacle for holding oil shall be placed on the pavement.
- B. All motor vehicles shall be provided with an absolutely oiltight or watertight receptacle so placed that any drip or overflow from the motor shall fall into such receptacle. No such receptacle shall be emptied or allowed to drip or overflow upon any pavement.

**§ 36-84. (Reserved)**

**§ 36-85. (Reserved)**

**§ 36-86. (Reserved)**

**§ 36-87. (Reserved)**

**§ 36-88. (Reserved)**

**§ 36-89. (Reserved)**

**§ 36-90. (Reserved)**

**§ 36-91. (Reserved)**

**§ 36-92. (Reserved)**

**§ 36-93. (Reserved)**

ARTICLE III  
**Operation of Vehicles Generally**

**§ 36-94. Immobilization and impoundment of motor vehicles. [Amended 3-20-2000 by Ord. No. 1699]**

- A. When a public safety officer detains the driver of a motor vehicle for a violation of a state law or City ordinance for which vehicle immobilization is required, the public safety officer shall do all of the following:
- (1) Immediately confiscate the vehicle's registration plate and destroy it.
  - (2) Issue a temporary vehicle registration plate for the vehicle in the same form prescribed by the Secretary of State for temporary registration plates issued under MCLA § 257.226a or 257.226b.
  - (3) Place the temporary vehicle registration plate on the vehicle in the manner required by the Secretary of State.
  - (4) Notify the Secretary of State through the Law Enforcement Information Network in a form prescribed by the Secretary of State that the registration plate was confiscated and destroyed, and a temporary plate was issued.
- B. A temporary vehicle registration plate issued under this section is valid until the charges against the persons are dismissed, the person pleads guilty or nolo contendere to those charges, or the person is found guilty of or is acquitted of those charges.
- C. A court shall order a vehicle immobilized under MCLA § 257.904d by the use of any available technology approved by the court that locks the ignition, wheels, or steering of the vehicle or otherwise prevents any person from operating the vehicle or that prevents the defendant from operating the vehicle. If a vehicle is immobilized under this section, the court may order the vehicle stored at a location and in a manner considered appropriate by the court. The court may order the person convicted of violating MCLA § 257.625, § 36-129 of the Kalamazoo City Code, or a suspension, revocation, or denial under state law or City ordinance to pay the cost of immobilizing and storing the vehicle.
- D. A vehicle subject to immobilization may be sold during the period of immobilization, but shall not be sold to a person who is exempt from paying a use tax under § 3(3)(a) of the Use Tax Act, 1937 PA 94, MCLA § 205.93 without a court order.
- E. A defendant who is prohibited from operating a motor vehicle by vehicle immobilization shall not purchase, lease, or otherwise obtain a motor vehicle during this immobilization period.
- F. A person shall not remove, tamper with, or bypass or attempt to remove, tamper with, or bypass a device that he or she knows or has reason to know has been installed on a vehicle by court order by vehicle immobilization or operate or attempt to operate a vehicle that he or she knows or has reason to know has been ordered immobilized.
- G. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100, or both.
- H. To the extent that a City ordinance provision regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, the ordinance is preempted.
- I. If a public safety officer stops a vehicle that is being operated in violation of an immobilization order, the vehicle shall be impounded pending an order of a court of competent jurisdiction.
- J. The court shall require the defendant or a person who provides immobilization services to the court under this section to certify that a vehicle ordered immobilized by the court is immobilized as required.

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**§ 36-95. State operator's or chauffeur's license. [Traf. Code § 30; amended 12-3-1984 by Ord. No. 1337; 4-1-1985 by Ord. No. 1347; 3-20-2000 by Ord. No. 1698]** § 36-95

- A. In order to conform with applicable state statutes, the following provisions shall apply within the City:
- (1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided by law of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this City.
  - (2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this City by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this section.
  - (3) Except as otherwise provided, a person who violates Subsection A(1) or (2) is guilty of a misdemeanor punishable as follows: For a first violation, by imprisonment for not more than 93 days or a fine of not more than \$500, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the Secretary of State upon notification by a public safety officer.
  - (4) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the Secretary of State and shall furnish the record to the court. The driving record of the person may be obtained from the Secretary of State's computer information network.
  - (5) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.
  - (6) A person whose vehicle group designation is suspended or revoked and who has been notified as provided by law of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this City, except as permitted under this section, while any of those conditions existing is guilty of a misdemeanor punishable, except as otherwise provided herein, by imprisonment for not less than three days or more than 93 days or a fine of not more than \$100, or both.
  - (7) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.
- B. Every operator of a motor vehicle shall at all times have in his immediate possession, when driving a motor vehicle, his operator's or chauffeur's license. Such license shall be submitted for examination, upon demand by any police officer.
- C. It shall be unlawful for any person to display or cause or permit to be displayed or to have in his possession any operator's or chauffeur's license knowing the same to be fictitious, or to have been cancelled, revoked, suspended or altered; to lend or to knowingly permit the use of, by one not entitled thereto, any operator's or chauffeur's license issued to the person so lending or permitting the use thereof; or to display or to represent as one's own any operator's or chauffeur's license not issued to the person so displaying the same.
- D. It shall be unlawful for any operator holding an instruction permit to operate a motor vehicle, unless accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver.
- E. It shall be unlawful for any person to knowingly authorize or permit any unlicensed driver to operate a motor

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vehicle.

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- F. Any driver who shall change his address before his operator's or chauffeur's license expires shall comply with the state law relating to the subject, and it shall be unlawful for any person to operate a motor vehicle upon the public streets of the City with such a license which does not show his proper and actual address.
- G. It shall be unlawful for any person driving a motor vehicle upon a street in this City, when licensed to do so by a restricted driver's license, to operate such vehicle without complying with the restrictions thereon.

**§ 36-96. General duty to use due care. [Traf. Code § 33]**

Every driver of a vehicle shall exercise due care to avoid colliding with any object, pedestrian or vehicle upon or adjacent to any roadway and shall give warning, by sounding the horn, when necessary.

**§ 36-97. Duty to drive on right half of roadway. [Traf. Code § 8]**

- A. Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
  - (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.
  - (2) When the right half of a roadway is closed to traffic while under construction or repair or when an obstruction exists making it necessary to drive to the left of the center of the highway; provided that any driver so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard.
  - (3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon.
- B. Except when lawfully permitted to drive on the left half of the roadway as provided in Subsection A, upon a roadway having two or more lanes for travel in one direction, a vehicle shall be driven in the extreme right-hand lane available for travel; except that a vehicle may be driven in any lane lawfully available to traffic moving in the same direction of travel when the lanes are occupied by vehicles moving in substantially continuous lanes of traffic or for a reasonable distance prior to making a left turn.

**§ 36-98. Passing vehicle proceeding in opposite direction. [Traf. Code § 11]**

Drivers of vehicles proceeding in opposite directions shall pass each other to the right and, upon roadways having width for not more than one line of traffic in each direction. Each driver shall give to the other at least 1/2 of the main-traveled portion of the roadway, as nearly as possible.

**§ 36-99. Passing vehicle proceeding in same direction — Generally. [Traf. Code §§ 12, 14]**

- A. Except as otherwise specifically provided, the driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof and, when safely clear of such overtaken vehicle, shall take up a position as near the right-hand edge of the main traveled portion of the highway as is practicable.
- B. No vehicle shall be driven to the left side of the center of a two-lane (or any multiple thereof) highway or in the center lane of a three- or five-lane highway in overtaking and passing another vehicle proceeding in the same direction, unless such left side or center lane is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. The foregoing limitation shall not apply upon a one-way roadway.
- C. Except when overtaking and passing on the right is permitted, the following rules shall govern a driver of a

§ 36-99 motor vehicle overtaking a bicycle proceeding in the same direction: [Added 9-19-2016 by Ord. No. 1942] § 36-103

- (1) If there is more than one lane for traffic proceeding in the same direction, move the vehicle to the lane to the immediate left, if the lane is available and moving into the lane is reasonably safe;
- (2) If there is only one lane for traffic proceeding in the same direction, pass to the left of the person operating a bicycle at a safe distance, which must be not less than five feet between any portion of the vehicle and the bicycle, and shall not move again to the right side of the highway until the vehicle is safely clear of the overtaken person operating a bicycle.
- (3) The driver of a motor vehicle may drive to the left of the center of a roadway, including when a no passing zone is marked, to pass a person operating a bicycle only if the roadway to the left of the center is unobstructed for a sufficient distance to permit the driver to pass the person operating the bicycle safely and avoid interference with oncoming traffic. This subsection does not authorize driving on the left side of the center of the roadway when otherwise prohibited by local ordinance or state law.

**§ 36-100. Same — On right. [Traf. Code § 13]**

- A. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
  - (1) When the vehicle overtaken is making or about to make a left turn.
  - (2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction and when such vehicles are moving in substantially continuous lanes of traffic.
  - (3) Upon a one-way street, or upon any street or highway on which traffic is restricted to one direction of movement, where the street or highway is free from obstructions and of sufficient width for two or more lines of moving vehicles and when such vehicles are moving in substantially continuous lanes of traffic.
- B. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.
- C. The driver of a motor vehicle may overtake and pass upon the right of a bicycle at a safe distance, which must be not less than five feet between any portion of the vehicle and the bicycle, when the bicycle being overtaken is making or about to make a left turn; provided, however, that the driver of a vehicle shall not overtake and pass a bicycle upon the right by driving off the pavement or main-traveled portion of the roadway. [Added 9-19-2016 by Ord. No. 1942]

**§ 36-101. Same — Duty of driver of overtaken vehicle. [Traf. Code § 12]**

Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle, on audible signal, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

**§ 36-102. Same — No-passing zones. [Traf. Code § 14]**

It shall be unlawful for the driver of any vehicle to overtake or pass any other vehicle in a designated no-passing zone.

**§ 36-103. Starting; stopping or turning generally; signals. [Traf. Code § 17]**

- A. The driver of any vehicle upon a street, before starting, stopping or turning from a direct line, shall first see that such movement can be made in safety and shall give a signal of his intention so to do.



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B. The signal required by this section shall be given either by means of the hand and arm in the manner herein specified, or by a mechanical or electrical signal device which conveys an intelligible signal or warning to another driver approaching from the rear. Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to stop, start or turn by extending the hand and arm horizontally from and beyond the left side of the vehicle.

**§ 36-104. Method of turning at intersection, alley or driveway. [Traf. Code §§ 18, 19, 83g]**

- A. The driver of a vehicle intending to turn at an intersection, alley or driveway shall do so as follows:
- (1) Both the approach for a right turn and a left turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
  - (2) The approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and, after entering an intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.
  - (3) The approach for a left turn from a two-way roadway into a one-way roadway shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection.
  - (4) A left turn from a one-way roadway into a two-way roadway shall be made by approaching as close as practicable to the left curb or edge of the roadway and by passing to the right of the center line of the street being entered upon leaving the intersection.
  - (5) Where both streets or roadways are one-way, both the approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.
- B. The Traffic Engineer is authorized to place markers, buttons or signs within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be travelled by vehicles turning at the intersection, and when markers, buttons or signs are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

**§ 36-105. Prohibited turns. [P.S. Code § PS301.354; Traf. Code § 83f]**

- A. The Traffic Engineer is hereby authorized, with the consent of the City Commission by motion, to determine those streets or intersections of streets from which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs upon such streets and at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are unrestricted.
- B. When, in the interest of public safety, the Traffic Engineer finds that a specific turning movement to or from a driveway to a public street unreasonably interferes with pedestrian or vehicular traffic, such turning movement may be prohibited by written orders of the Traffic Engineer and signs posted stating such prohibition.
- C. It shall be unlawful for the driver of any vehicle to disobey the directions of any sign erected pursuant to this section.

**§ 36-106. Right-of-way at intersections generally. [Traf. Code § 7]**

- A. The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.
- B. When two vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

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- C. The right-of-way rules declared in Subsections A and B are modified at through highways and otherwise as stated in this article.
- D. When a vehicle approaches the intersection of a highway from an intersecting highway or street which is intended to be, and is constructed as, a merging highway or street, and is plainly marked at such intersection with appropriate merge signs, the driver of such vehicle shall yield the right-of-way to any vehicle so close as to constitute an immediate hazard on the highway about to be entered and shall adjust his speed so as to enable the vehicle to merge safely with the through traffic.
- E. The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have under this section.

**§ 36-107. Right-of-way when turning left at intersection. [Traf. Code § 7]**

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but such driver, having so yielded and having given a signal when and as required by this article, may make such left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn; provided that, at an intersection at which a traffic signal is located, a driver intending to make a left turn shall permit vehicles bound straight through in the opposite direction which are awaiting a go signal to pass through the intersection, before making the turn.

**§ 36-108. Stop and yield intersections. [Traf. Code §§ 3, 83a]**

- A. The Traffic Engineer is hereby authorized, with the consent of the City Commission by motion, to determine and designate intersections where conditions warrant the stopping of traffic and to determine whether vehicles shall stop or yield the right-of-way at one or more entrances to any such intersection, and shall erect a sign at every place where he shall find such stop or yield required, except at those intersections which are controlled by automatic signals or other traffic-control devices.
- B. Except when directed to proceed by a police officer, the driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection, or if there is no crosswalk, shall stop at a clearly marked stop line, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when the driver would be moving across or within the intersection.
- C. The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver would be moving across or within the intersection. However, if required for safety to stop, the driver shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.
- D. The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have under this section.

**§ 36-109. Right-of-way of authorized prosecutions. [Traf. Code §§ 37, 91]**

- A. A motor vehicle forming part of a funeral procession, when going to a place of burial, or any other authorized procession, shall have the right-of-way over all other vehicles, except fire apparatus, ambulances and police patrol vehicles, at a street or highway intersection; provided that the vehicle in a funeral procession shall

§ 36-109 display a flag, which shall be fluorescent orange in color, and upon which shall be printed, stamped or stained a black cross or the star of David. In addition, the lead vehicle and the last vehicle in a funeral procession may carry an additional flag. The flags shall not contain names embossed or printed thereon, except the word "funeral". § 36-109.3

B. No operator of a vehicle shall drive through the vehicles, persons or animals comprising a funeral or other authorized procession while such funeral or procession is in motion, except when otherwise directed by a police officer. The provision shall not apply to authorized emergency vehicles.

**§ 36-109.1. Stopping for school bus displaying flashing red lights; exception; violation as civil infraction; meeting stopped school bus on divided highway; evidence; community service. [Added 4-19-1976 by Ord. No. 1084; amended 10-30-1995 by Ord. No. 1598]**

A. The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying two alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than 20 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper but not greater than 10 miles an hour and with due caution for the safety of passengers being received or discharged from the school bus. The driver of a vehicle who fails to stop for a school bus as required by this subsection, who passes a school bus in violation of this subsection, or who fails to stop for a school bus in violation of an ordinance that complies with this subsection, is responsible for a civil infraction.

B. The driver of a vehicle upon a highway which has been divided into two roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so construction as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier, or section.

C. In a proceeding for a violation of Subsection A, proof that the particular vehicle described in the citation was in violation of Subsection A, together with proof that the defendant named in the citation was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

D. In addition to the civil fine and costs provided for a civil infraction, the judge, district court referee, or district court magistrate may order a person who violates this section to perform not to exceed 100 hours of community service at a school.

**§ 36-109.2. Regulations governing stopping of school buses to receive or discharge pupils. [Added 4-19-1976 by Ord. No. 1084; amended 10-30-1995 by Ord. No. 1598]**

A. No driver of a school bus shall stop on the streets of the City for the purpose of receiving or discharging pupils, unless his bus is painted and equipped with lights in accordance with the provisions of the Michigan Traffic Code.

B. The driver of a school bus shall actuate the alternately flashing lights on the bus whenever receiving or discharging pupils on any street in the City.

C. Having actuated the flashing lights in accordance with the provisions of Subsection B above, the driver of a school bus, before resuming motion, shall deactivate the flashing lights and permit stopped traffic to proceed. When resuming motion, the driver shall proceed in such a manner as to allow congested traffic to disperse by keeping the bus as near to the right side of the street as can be done with safety.

**§ 36-109.3. Failure to stop for school crossing guard; misdemeanor; presumption. [Added 10-30-1995 by**

- A. A driver of a motor vehicle who fails to stop when a school crossing guard is in a school crossing and is holding a stop sign in an upright position visible to approaching vehicular traffic is guilty of a misdemeanor.
- B. In a proceeding for a violation of this section, proof that the particular vehicle described in the citation, complaint, or warrant was used in the violation, together with proof that the defendant named in the citation, complaint, or warrant was the registered owner of the vehicle at the time of the violation, constitutes in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

**§ 36-110. Procedure upon approach of authorized emergency vehicle. [Traf. Code § 91]**

Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted flashing, rotating or oscillating lamp exhibiting red or blue light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, and when the driver is giving audible signal by siren, exhaust whistle or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right edge or curb of the roadway (or left edge on a one-way street), clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

**§ 36-111. Duty to stop at railroad crossing upon approach of train. [Traf. Code § 2]**

- A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, such driver shall stop within 50 feet, but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
  - (1) A clearly visible and positive signal gives warning of the immediate approach of a railway train or car.
  - (2) A crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a railroad train.
  - (3) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard.
  - (4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

**§ 36-112. Driving through, around or under railroad crossing gate. [Traf. Code § 2]**

No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad grade crossing, while such gate or barrier is closed or is being opened or closed.

**§ 36-113. Emerging from alley, private road or driveway. [Traf. Code § 4]**

The driver of a vehicle about to enter or cross a highway from an alley, private road or driveway shall come to a full stop and yield the right-of-way to all vehicles or pedestrians approaching on such highway so close to such point of entry as to constitute an immediate hazard.

**§ 36-114. Obstructing intersections or crosswalks. [Traf. Code § 5]**

Notwithstanding any traffic-control signal indication or other right to proceed, no driver of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate his vehicle, without obstructing or blocking the passage of other vehicles or pedestrians.

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**§ 36-115. Driving on sidewalks. [Traf. Code § 40]**

The driver of a vehicle shall not drive upon or within any sidewalk area, except at a driveway.

**§ 36-116. Driving across curb. [P.&L. Code § PL507.3; amended 12-20-1976 by Ord. No. 1104]**

The driver of a vehicle shall not drive upon or across a curb.

**§ 36-117. Driving through safety zone. [Traf. Code § 41]**

No vehicle shall at any time be driven through or within an occupied safety zone.

**§ 36-118. Driving on three-lane roadway. [Traf. Code § 15]**

Upon a roadway which is divided into three lanes, a vehicle shall not be driven to the left of the center lane, except when making a left turn, and shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation of a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

**§ 36-119. Designation of and driving on one-way streets and alleys. [Traf. Code §§ 16, 83d]**

- A. The Traffic Engineer is hereby authorized, with the consent of the City Commission by motion, to designate one-way streets, roadways or alleys and shall place and maintain signs giving notice thereof at every intersection where traffic in the opposite direction is prohibited. No such designation shall be effective until such signs are in place.
- B. Vehicular traffic shall move only in the indicated direction upon those streets and parts of streets and in those alleys where signs have been erected indicating that traffic shall move in only one direction.

**§ 36-120. Driving on pedestrian, special event or play street. [Traf. Code § 83i]**

It shall be unlawful for any person to drive any motor vehicle on any pedestrian, special event or play street established pursuant to § 36-16 in violation of the Traffic Engineer's order relating to such street.

**§ 36-121. Following too closely. [Traf. Code § 9]**

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the streets.

**§ 36-122. Following fire apparatus or driving near scene of fire. [Traf. Code § 10]**

The driver of any vehicle, other than an authorized emergency vehicle on official business, shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within 500 feet where fire apparatus has stopped in answer to a fire alarm.

**§ 36-123. Driving over fire hose. [Traf. Code § 46; P.&L. Code § PL1301.2]**

No vehicle shall be driven over any unprotected hose of the Fire Department, without the consent of the Fire Department official in command.

**§ 36-124. Limitations on backing. [Traf. Code § 39]**

The driver of a vehicle shall not back the same, unless such movement can be made with reasonable safety and without interfering with other traffic.

**§ 36-125. Speed restrictions. [Traf. Code §§ 20, 21, 83c]**

- A. Any person driving a vehicle on a street shall drive the same at a careful and prudent speed, not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the street and of any other condition then existing, and no person shall drive any vehicle upon a street at a speed greater than will permit him to bring it to a stop within the assured, clear distance ahead.
- B. Subject to the provisions of Subsection A above, and except in those instances where a different speed is established and posted, it shall be prima facie unlawful for the driver of a vehicle to drive the same at a speed exceeding 25 miles per hour on any street in a business or residential district, but in any case, when such speed would be unsafe, it shall be unlawful.
- C. The Traffic Engineer is hereby authorized, with the consent of the City Commission by motion, to establish speed regulations and to erect signs giving notice thereof as follows:
  - (1) Establish prima facie lawful speed limits on highways outside of business or residential districts, which shall in no case be less than 25 miles per hour.
  - (2) Increase the prima facie speed limits on through highways within business or residential districts.
  - (3) Establish the prima facie speed limit in public parks, alleys and cemeteries.
- D. It shall be prima facie unlawful for any person to drive a vehicle at a speed in excess of the limit stated on signs erected in accordance with the provisions of this section.
- E. In every charge of a violation of this section, unless the facts render it impractical, the complaint and traffic citation shall specify the speed at which the defendant is alleged to have driven, and also the speed applicable within the district or at the location.

**§ 36-126. Racing and exhibition driving. [Traf. Code § 33A; amended 7-16-1979 by Ord. No. 1167]**

- A. Any person who engages in any motor vehicle race, drag race driving on any public street or aids or abets another to do so, whether or not the authorized speed limit is exceeded, shall be guilty of a misdemeanor.
- B. For the purpose of this section, "drag racing" is defined as the operation of two or more motor vehicles from a point side by side, at accelerating speeds, in an attempt to outgain or outdistance each other. "Racing" is defined as the use of one or more motor vehicles in an attempt to outgain or outdistance or to prevent or to attempt to prevent another motor vehicle from passing or to attempt to arrive at a given destination ahead of another motor vehicle or vehicles or to test the physical stamina or endurance of such drivers or motor vehicle or vehicles.
- C. Any person who engages in exhibition driving on any public street is responsible for a civil infraction. Exhibition driving is defined as the driving of a motor vehicle in such an unusual manner or out of the usual flow of traffic, whether or not other traffic is present, so that it is likely to attract the attention of the public, whether or not there is anyone present, or it shall consist of any two or more of the following:
  - (1) Rapid acceleration.
  - (2) Squealing, peeling or burning of the tires.
  - (3) The swaying of the motor vehicle from side to side commonly referred to as "fishtailing."
  - (4) Racing or running of the engine of a motor vehicle at such high revolutions per minute, combined with the engaging of the gears, causing excessive or unusual noise.
  - (5) Unnecessary and excessive changing of lanes.

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(6) The emission of any unreasonably loud or raucous or disturbing and unnecessary noise from the engine or exhaust system of any motor vehicle. § 36-129

**§ 36-127. Reckless driving. [Traf. Code § 32; amended 12-29-1975 by Ord. No. 1073]**

Any person who drives any vehicle upon a street or a frozen public lake, stream or pond or other place open to the general public, including any area designated for the parking of vehicles, in wilful or wanton disregard for the safety of persons or property, shall be guilty of reckless driving and a misdemeanor.

**§ 36-128. Careless or negligent driving. [Amended 12-29-1975 by Ord. No. 1073; 7-16-1979 by Ord. No. 1167]**

Any person who operates any vehicle upon a street or frozen public lake, stream or pond or other place open to the general public, including any area designated for the parking of vehicles, in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness is responsible for a civil infraction.

**§ 36-129. Driving while under the influence of alcohol, a controlled substance, or both.<sup>148</sup> [Traf. Code § 34; amended by 3-23-1981 by Ord. No. 1221; 3-7-1983 by Ord. No. 1282; 10-28-1985 by Ord. No. 1365; 12-16-1991 by Ord. No. 1521; 5-30-1995 by Ord. No. 1587; 2-1-1998 by Ord. No. 1648; 5-4-1998 by Ord. No. 1653; 11-29-1999 by Ord. No. 1690; 3-2-2000 by Ord. No. 1697; 9-15-2003 by Ord. No. 1759; 6-18-2007 by Ord. No. 1829; 3-19-2012 by Ord. No. 1893; 7-16-2012 by Ord. No. 1899; 7-15-2013 by Ord. No. 1911]**

- (1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the City if the person is operating while intoxicated. As used in this section, "operating while intoxicated" means either of the following applies:
  - (a) The person is under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.
  - (b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2018, the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
  - (c) The person has an alcohol content of 0.17 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (2) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this state by a person if any of the following apply:
  - (a) The person is under the influence of alcoholic liquor, a controlled substance, other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance.
  - (b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2018, the person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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148. Editor's Note: See MCLA § 257.625.

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- (c) The person's ability to operate the motor vehicle is visibly impaired due to the consumption of alcoholic liquor, a controlled substance, or other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance.
- (3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state when, due to the consumption of alcoholic liquor, a controlled substance, or other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating Subsection (1), a finding of guilty under this subsection may be rendered.
- (4) Reserved.
- (5) Reserved.
- (6) A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:
- (a) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2018, the person has an alcohol content of 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (b) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.
- (7) A person, whether licensed or not, is subject to the following requirements:
- (a) He or she shall not operate a vehicle in violation of Subsection (1), (3), or (8) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a crime punishable as follows:
- (i) Except as provided in Subparagraph (ii), a person who violates this subdivision is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$200 or more than \$500 and to one or more of the following:
- (A) Imprisonment for not less than five days or more than 93 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.
- (B) Community service for not less than 30 days or more than 90 days.
- (ii) Reserved.
- (b) He or she shall not operate a vehicle in violation of Subsection (6) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a misdemeanor punishable as follows:
- (i) A person who violates this subdivision may be sentenced to one or more of the following:
- (A) Community service for not more than 60 days.
- (B) A fine of not more than \$500.
- (C) Imprisonment for not more than 93 days.
- (ii) Reserved.



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- (c) In the judgment of sentence under Subdivision (a)(i) or (b)(i), the court may, unless the vehicle is ordered forfeited under MCL § 257.625n, order vehicle immobilization as provided in MCL § 257.904d.
- (d) Reserved.
- (8) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the City if the person has in his or her body any amount of a controlled substance listed in schedule one under § 7212 of the Public Health Code, 1978 PA 368, MCL § 333.7212, or a rule promulgated under that section, or of a controlled substance described in § 7214(a)(iv) of the Public Health Code, 1978 PA 368, MCL § 333.7214.
- (9) If a person is convicted of violating Subsection (1) or (8), all of the following apply:
  - (a) The person is guilty of a misdemeanor punishable by one or more of the following:
    - (i) Community service for not more than 360 hours.
    - (ii) Imprisonment for not more than 93 days, or, if the person is convicted of violating Subsection (1)(c), imprisonment for not more than 180 days.
    - (iii) A fine of not less than \$100 or more than \$500, or if the person is guilty of violating Subsection (1)(c), a fine of not less than \$200 or more than \$700.
  - (b) Reserved.
  - (c) Reserved.
  - (d) Reserved.
  - (e) In the judgment of sentence under Subdivision (a), the court may order vehicle immobilization as provided in MCL § 257.904d of the Michigan Vehicle Code.
  - (f) Reserved.
- (10) A person who is convicted of violating Subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$100 or more than \$500, or both.
- (11) If a person is convicted of violating Subsection (3), all of the following apply:
  - (a) The person is guilty of a misdemeanor punishable by one or more of the following:
    - (i) Community service for not more than 360 hours.
    - (ii) Imprisonment for not more than 93 days.
    - (iii) A fine of not more than \$300.
  - (b) Reserved.
  - (c) Reserved.
  - (d) Reserved.
  - (e) In the judgment of sentence under Subdivision (a), the court may order vehicle immobilization as provided in MCL § 257.904d.
  - (f) Reserved.
- (12) If a person is convicted of violating Subsection (6), all of the following apply:
  - (a) Except as otherwise provided in Subdivision (b), the person is guilty of a misdemeanor punishable by one or both of the following:
    - (i) Community service for not more than 360 hours.
    - (ii) A fine of not more than \$250.

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- (b) If the violation occurs within seven years of one or more prior convictions, the person may be sentenced to one or more of the following:
- (i) Community service for not more than 60 days.
  - (ii) A fine of not more than \$500.
  - (iii) Imprisonment for not more than 93 days.
- (13) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the Code of Criminal Procedure, 1927 PA 175, MCL §§ 760.1 to 777.69.
- (14) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person/s activities in that service.
- (15) If the City attorney intends to seek an enhanced sentence under this section or a sanction under MCL § 257.625n of the Michigan Vehicle Code based upon the defendant having prior convictions, the City attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, circuit court, municipal court, or family division of circuit court, a statement listing the defendants prior convictions.
- (16) If a person is charged with a violation of Subsection (1), (3), (7), or (8), the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating Subsection (6) in exchange for dismissal of the original charge. This subsection does not prohibit the court from dismissing the charge upon the prosecuting attorney's motion.
- (17) A prior conviction shall be established at sentencing by one or more of the following:
- (a) A copy of a judgment of conviction.
  - (b) An abstract of conviction.
  - (c) A transcript of a prior trial or a plea-taking or sentencing proceeding.
  - (d) A copy of a court register of actions.
  - (e) A copy of the defendants driving record.
  - (f) Information contained in a presentence report.
  - (g) An admission by the defendant.
- (18) Except as otherwise provided in Subsection (20), if a person is charged with operating a vehicle while under the influence of a controlled substance, or other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance in violation of Subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance, or other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance at the time of the violation.
- (19) Except as otherwise provided in Subsection (20), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance, or other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance, in violation of Subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance, or other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

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- (20) A special verdict described in Subsections (18) and (19) is not required if a jury is instructed to make a finding solely as to either of the following:
- (a) Whether the defendant was under the influence of a controlled substance, or other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance at the time of the violation.
  - (b) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance, or other intoxicating substance, or a combination of alcoholic liquor, a controlled substance, or other intoxicating substance at the time of the violation.
- (21) If a jury or court finds under Subsection (18), (19), or (20) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance, an alcoholic liquor, or other intoxicating substance, the court shall do both of the following:
- (a) Report the finding to the Secretary of State.
  - (b) On a form or forms prescribed by the state court administrator, forward to the department of state police a record that specifies the penalties imposed by the court, including any term of imprisonment, and any sanction imposed under MCL § 257.625n or 257.904d of the Michigan Vehicle Code.
- (22) Except as otherwise provided by law, a record described in Subsection (21)(b) is a public record and the department of state police shall retain the information contained on that record for not less than seven years.
- (23) In a prosecution for a violation of Subsection (6), the defendant bears the burden of proving that the consumption of alcoholic liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence.
- (24) The court may order as a condition of probation that a person convicted of violating Subsection (1) or (8) shall not operate a motor vehicle unless that vehicle is equipped with an ignition interlock device approved, certified, and installed as required under MCL § 257.625k and MCL § 257.625l.
- (25) As used in this section:
- (a) "Intoxicating substance" means any substance, preparation, or a combination of substances and preparations other than alcohol or a controlled substance, that is either of the following:
    - (i) Recognized as a drug in any of the following publications or their supplements:
      - (A) The official United States pharmacopeia.
      - (B) The official homeopathic pharmacopeia of the United States.
      - (C) The official national formulary.
    - (ii) A substance, other than food, taken into a person's body, including but not limited to vapors or fumes, that is used in a manner or for a purpose for which it was not intended, and that may result in a condition of intoxication.
  - (b) "Prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state, subject to Subsection (27):
    - (i) Except as provided in Subsection (26), a violation or attempted violation of any of the following:

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- (A) This section, except a violation of Subsection 2, or MCL § 257.625(2), or a violation of any prior enactment of this section in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.
  - (B) MCL § 257.625m.
  - (C) Former MCL § 257.625b.
- (26) Except for purposes of the enhancement described in Subsection (12)(b), only one violation or attempted violation of Subsection (6), a local ordinance substantially corresponding to Subsection (6), or a law of another state substantially corresponding to Subsection (6) may be used as a prior conviction.
- (27) If two or more convictions described in Subsection (25) are convictions for violations arising out of the same transaction, only one conviction shall be used to determine whether the person has a prior conviction.

**§ 36-129.1. Preliminary chemical breath analysis. [Added 6-18-2007 by Ord. No. 1829]**

A police officer or public safety officer may require a person to submit to a preliminary chemical breath analysis as provided by MCLA § 257.625a(2), as amended. Except as provided by state law, a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a police officer or public safety officer is responsible for a civil infraction.

**§ 36-130. Open liquor containers in vehicles on highways and streets. [Amended 4-20-1992 by Ord. No. 1530]**

- A. A person shall not transport or possess any alcoholic liquor in a container which is open, uncapped, or upon which the seal is broken, within the passenger compartment of a vehicle on the highways or streets of this City. If the vehicle does not have a trunk or compartment separate from the passenger compartment, a container which is open, uncapped, or upon which the seal is broken shall be encased or enclosed.
- B. This section shall not apply to any chartered passenger vehicle licensed by the Michigan public service commission.

**§ 36-131. Operation of motorcycles and motor-driven cycles. [Traf. Code § 35]**

- A. Every person operating a motorcycle or motor-driven cycle upon a roadway shall be granted all the rights and shall be subject to all the duties applicable to the driver of a vehicle under this chapter, except as to those provisions which, by their nature, can have no application.
- B. The operators of motorcycles or motor-driven cycles shall not ride more than two abreast on any roadway and shall comply with the seating and control requirements prescribed for bicyclists in §§ 36-216 and 36-220.

**§ 36-132. Production of evidence of insurance. [Amended 6-5-1989 by Ord. No. 1463]**

The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the streets of the City or the operator of the motor vehicle shall produce upon request of a police officer or public safety officer satisfactory evidence that the motor vehicle is insured under Chapter 31 of Act. No. 218 of the Public Acts of 1956, as amended, being §§ 500.3101 to 500.3179 of the Michigan Compiled Laws.

**§ 36-133. Civil recovery of expenses for public safety responses to incidents involving drivers under the influence. [Amended 9-11-1989 by Ord. No. 1471]**

## A. "Emergency response" shall mean:

- (1) The providing, sending and/or utilizing of public safety services or the services of other departments or divisions by the City to an incident resulting in an accident involving a motor vehicle where one or more of the drivers were operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance or under the combined influence of an alcoholic beverage and controlled substance; or
- (2) The making of a traffic stop and arrest by a police officer or public safety officer when the driver was under the influence of an alcoholic beverage or controlled substance or under the combined influence of an alcoholic beverage and controlled substance.

B. "Expense of an emergency response" shall mean the direct costs associated with the occurrence of an emergency response as set forth in Subsection A(1) or (2), including, but not limited to: The salaries or wages, including overtime pay, of public safety or other City personnel for time spent responding to the incident, including arresting the individual, processing the individual after an arrest, preparing reports on the incident and investigating the incident; also, incarceration costs, medical costs of the inmate, collecting and analyzing evidence, including determining blood alcohol content and determining the presence and identification of controlled substances in the blood whether by a blood test or other chemical test. Said costs shall include any costs billed to the City by third parties, such as emergency medical services, hospitals or towing fees.

C. Any person who, while under the influence of an alcoholic beverage or controlled substance or under the combined influence of an alcoholic beverage and controlled substance, operates a motor vehicle which results in an emergency response as defined in this section shall be responsible and/or liable for all expenses of the City as a result of the emergency response.

D. For the purposes of this section, a person is under the influence of an alcoholic beverage or controlled substance or the combined influence of an alcoholic beverage or controlled substance when his or her physical or mental abilities are substantially and materially affected by the consumption of an alcoholic beverage or a controlled substance or the combined influence of an alcoholic beverage and a controlled substance, or when his or her ability to drive was so weakened or reduced by the consumption of intoxicating liquor or a controlled substance or a combination thereof that said individual drove with less ability than would an ordinary, careful and prudent driver, said reduction being visible to an ordinary observant person; or, alternatively, that he or she no longer has the ability to operate a motor vehicle with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle while under the influence of an alcoholic beverage if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of 0.07%.

E. All expenses of an emergency response shall be a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the City in the same manner as in the case of an obligation under a contract, express or implied; except that liability for the expenses provided for in this section shall not be insurable, and no insurance policy shall provide or pay for any of the expenses. This section shall be construed to be a responsibility and liability of a civil nature on the part of the driver and shall not be construed to conflict, contravene or enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge under the Michigan Vehicle Code on a driver for operating a motor vehicle while under the influence of an alcoholic beverage and/or controlled substance or while impaired thereby.

F. The City Commission may, by resolution, adopt a schedule of the costs included within the expenses of an emergency response.

G. After receiving itemized costs incurred for an emergency response, the Public Safety Department shall submit a bill for those costs by first-class mail or personal service to the person liable for these expenses under this section. Said bill shall require full payment within 30 days from the date of service.

H. If the individual described in this section fails to pay the bill within 30 days of service, then the City attorney

§ 36-133 may commence a civil action to recover the expenses of the emergency response and any costs of the litigation allowed by law. § 36-135

**§ 36-134. Transporting marihuana in motor vehicles.<sup>149</sup> [Added 4-15-2013 by Ord. No. 1908]**

- A. A person shall not transport or possess usable marihuana as defined in Section 26423 of the Public Health Code (MCLA § 333.26423) in or upon a motor vehicle or any self-propelled vehicle intended for land travel unless the marihuana is:
- (1) Enclosed in a case that is carried in the trunk of the vehicle; or
  - (2) Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is traveling does not have a trunk.
- B. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$500.

**§ 36-135. through § 36-142. (Reserved)**

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**149. Editor's Note: See also § 22-39, Marijuana possession; penalty.**

ARTICLE IV  
**Traffic-Control Devices Generally**

**§ 36-143. General authority to test, erect, maintain and remove. [Traf. Code § 83q]**

The Traffic Engineer shall test, place and maintain, or remove, traffic-control signs, signals, lane markings and other devices and shall determine the hours and days during which any traffic-control device shall be in operation or be in effect, when and as required under this chapter, to indicate and to carry out the provisions of this chapter, and may test, place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under this chapter and under state law and to warn or guide traffic.

**§ 36-144. Permission required for erection on state trunk-line highways. [Traf. Code § 83r]**

Notwithstanding the authority granted to the Traffic Engineer under this chapter, no stop signs, pavement markings, buttons or other traffic-control devices shall be erected or maintained upon any state trunk-line highway under the jurisdiction of the state highway commissioner, without the latter's written permission.

**§ 36-145. Conformity with state manual and specifications. [Traf. Code § 83q]**

In all respects, all traffic-control signs, signals and other devices shall conform to the state manual and specifications adopted pursuant to MSA § 9.2308 (MCLA § 257.608).

**§ 36-146. Obedience; avoidance. [Traf. Code §§ 42, 43]**

It shall be unlawful for the operator of any vehicle to fail or refuse to obey any traffic-control device placed in accord with the provisions of this chapter or the Michigan Vehicle Code unless otherwise directed by a police officer. No such operator shall attempt to avoid obedience to any traffic-control device by driving upon or through any private property.

**§ 36-147. Marking of traffic lanes. [Traf. Code § 83e]**

The Traffic Engineer is hereby authorized to mark lanes upon the roadway of any street where he shall find that a regular alignment of traffic is necessary in the interests of safety and efficiency, or at such places as he may find to be advisable, consistent with this chapter and state law.

**§ 36-148. Location of signals; signal legend generally. [Traf. Code § 1; amended 4-19-1976 by Ord. No. 1083]**

Whenever traffic is controlled by traffic-control signals, at least one signal shall be located over the traveled portion of the roadway so as to give drivers a clear indication of the right-of-way assignment from their normal positions approaching the intersection. The vehicle signals shall exhibit different colored lights successively, one at a time or with arrows. The following colors shall be used and such lights shall indicate and apply to drivers of vehicles as follows:

- A. Green indication. Vehicular traffic facing the signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn; but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
- B. Steady yellow indication. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, or at a limit line when marked, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.
- C. Steady red indication. Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection, or at a limit line when marked, or if none, then before entering

§ 36-148 the intersection, and shall remain standing until a green indication is shown; provided that after so stopping, § 36-151 vehicular traffic shall be privileged to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn, unless prohibited by sign, signal, marking, light or other traffic-control device. Vehicular traffic so turning shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

D. Arrow indications:

- (1) Green arrow (steady). Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.
- (2) Red arrow (flashing). When a red arrow is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection, or at a limit line when marked, or if none, then before entering the intersection and shall then be privileged to make the movement indicated, if no interference is offered pedestrians or vehicles lawfully on the street.

In the event a traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable, except as to those provisions which, by their nature, can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made; but in the absence of any sign or marking, the stop shall be made at the signal.

**§ 36-149. Flashing red or yellow signals. [Traf. Code § 1]**

- A. Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:
- (1) Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection, or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
  - (2) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

**§ 36-150. Damaging, removing, etc., devices. [Traf. Code § 85]**

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any traffic-control device.

**§ 36-151. Unauthorized devices. [Traf. Code § 84]**

- A. Except with authority of a statute or ordinance or of a duly authorized public body or official, no person shall place, maintain or display, along any highway or upon any structure in or over any highway, any sign, signal, marking, device, blinking, oscillating or rotating light or lights, decoration or banner which is or purports to be or is in imitation of or resembles or which can be mistaken for a traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.



- § 36-151
- § 36-162
- B. No person shall place, maintain or display along any highway any blinking, oscillating or rotating light or lights sufficiently similar in color and design that they may be mistaken for the distinguishing lights authorized by law for emergency vehicles or that create a hazard for the safety of drivers using the highways.
- C. This section shall not be deemed to prohibit the erection, upon private property adjacent to streets, of signs giving useful directional information and of a type that cannot be mistaken for traffic signs or signals.
- D. Every sign, signal, marking, device or light prohibited by this section is hereby declared to be a public nuisance and the Traffic Engineer is hereby empowered to remove the same, or cause it to be removed, without notice.

**§ 36-152. (Reserved)**

**§ 36-153. (Reserved)**

**§ 36-154. (Reserved)**

**§ 36-155. (Reserved)**

**§ 36-156. (Reserved)**

**§ 36-157. (Reserved)**

**§ 36-158. (Reserved)**

**§ 36-159. (Reserved)**

**§ 36-160. (Reserved)**

**§ 36-161. (Reserved)**

**§ 36-162. (Reserved)**



ARTICLE V  
**Stopping, Standing and Parking**

**§ 36-163. General prohibitions. [Traf. Code § 23; amended 10-9-1978 by Ord. No. 1144; 11-29-1990 by Ord. No. 1482; 5-18-1992 by Ord. No. 1533; 1-14-2002 by Ord. No. 1729]**

- A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:
- (1) On a sidewalk.
  - (2) In front of a public or private driveway.
  - (3) Within an intersection.
  - (4) Within 15 feet of a fire hydrant.
  - (5) On a crosswalk.
  - (6) Within 20 feet of a crosswalk or if none, then within 15 feet of the intersection of property lines at an intersection of highways.
  - (7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a highway.
  - (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone unless a different length is indicated by signs or markings.
  - (9) Within 50 feet of the nearest rail of a railroad crossing.
  - (10) Within 20 feet of the driveway entrance to any fire station and, on the sides of a street opposite the entrance to any fire station, within 75 feet of such entrance when properly sign-posted.
  - (11) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
  - (12) On the street side of any vehicle stopped or parked at the edge or curb of a street.
  - (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
  - (14) At a place when an official sign is erected which prohibits or restricts the stopping, standing or parking of vehicles.
  - (15) Within 200 feet of an accident at which police officers are in attendance.
  - (16) In front of any theater.
  - (17) In any place or in any manner so as to block immediate egress from any emergency exit or exits, conspicuously marked as such, of buildings.
  - (18) In any place or in any manner so as to block or hamper the immediate use of and immediate egress from any fire escape, conspicuously marked as such, providing an emergency means of egress from any building.
  - (19) In a parking space reserved for a handicapped person unless the person parking the vehicle is a handicapped person as so defined or is parking the vehicle for the benefit of such a person. Absence of both the certificate of identification issued under MCLA § 257.675 as amended and the special

§ 36-163 registration plate issued under MCLA § 257.803d as amended shall be prima facie evidence of a violation of this subsection. § 36-165

- (20) On a street or highway in such a way as to obstruct the delivery of mail to a rural mailbox by a carrier of the U.S. Postal Service.
  - (21) In a place or in a manner which blocks the use of an alley.
  - (22) In any area which must be accessed by the driver of a vehicle driving upon or across a curb in violation of § 36-116.
  - (23) On any unimproved surface within a side yard of a residential lot in a residential zoning district. An unimproved surface is one which is not surfaced with concrete, asphalt, gravel or similar material. A side yard is that area consisting of an open space unoccupied and unobstructed from the ground upward between a building and the side lot line extending from the front yard or setback line to the rear yard or to the lot line when there is no front or rear yard.
  - (24) On any roadway or drive accessible to the general public at the Kalamazoo-Battle Creek International Airport where posted signs prohibit the parking of unattended vehicles, or where posted signs limit the amount of time where an attended vehicle may remain in a standing or parked position. Unattended vehicles that are found to be in violation of this subsection may be towed without warning to the driver and/or owner.
- B. Motor buses, for the purpose of taking on or discharging passengers, may be stopped at the places designated in Subsection A(2), (4) and (6) or on the highway side of a vehicle illegally parked in a legally designated bus loading zone.
- C. No person shall move a vehicle not lawfully under his control into any prohibited area designated in this section or away from a curb such distance as is unlawful.
- D. General prohibitions relating to commercial vehicles:
- (1) No person shall park any commercial vehicle, or any type of equipment, trailer or truck, having a gross vehicle weight in excess of 10,000 pounds, and/or having more than two axles, and/or exceeding nine feet in overall height measured from the ground, and/or exceeding 21 feet in length, in any residential zoning district.
  - (2) The definition of the term "commercial vehicle" shall be as stated in the Michigan Motor Code (MCLA § 257.7) and shall include, but not be limited to the following: semi-trucks, dump trucks, stake trucks, flatbed trucks, wreckers, and tank trucks.
  - (3) This prohibition applies to any and all areas within any residential zoning district, except that the parking of commercial vehicles or commercial equipment shall be allowed in any residential zoning district, where such parking is limited to vehicles or equipment engaged in the performance of a service on the adjacent or underlying property, for the period of time reasonably necessary to complete the service.
  - (4) In any proceeding for a violation of this section, proof that the particular vehicle described in the citation, complaint or warrant was involved in such violation, together with proof that the defendant named in the citation, complaint or warrant was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

**§ 36-164. (Reserved)<sup>150</sup>**

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150. Editor's Note: Ord. No. 1568, adopted 2-21-1994, which amended §§ 36-4 and 36-175 of the Code of Ordinances pertaining to the duties and responsibilities of the Traffic Engineer, superseded and repealed the provisions of former § 36-164. Former § 36-164 pertained to the authority  
34:72

§ 36-165

§ 36-170

**§ 36-165. Unattended vehicles. [Traf. Code § 22e]**

No person having control or charge of a motor vehicle shall allow such vehicle to stand unattended on any street, highway or parking lot, without first effectively setting the brakes thereon, stopping the motor, locking the ignition and removing the keys therefrom, and, when standing on any grade, without turning the front wheels of such vehicle to the curb or side of the street or highway.

**§ 36-166. Parallel parking. [Traf. Code §§ 22a, 22b]**

- A. Except as otherwise specifically provided in this article, every vehicle parked upon a street shall be so parked with the wheels of such vehicle parallel to the roadway and within 12 inches of any existing right-hand curb.
- B. Vehicles may be parked with the left-hand wheels adjacent to and within 12 inches of the left-hand curb of properly signed one-way streets.

**§ 36-167. Angle parking. [Traf. Code §§ 22c, 83j]**

- A. The Traffic Engineer shall determine the location of angle parking zones and shall erect and maintain appropriate signs or markings indicating the same and giving notice thereof, except that no such zones shall be established on state trunk line highways.
- B. Upon those streets which have been signed or marked by the Traffic Engineer for angle parking, no person shall park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

**§ 36-168. Parking not to obstruct traffic. [Traf. Code § 22f]**

No person shall park any vehicle upon a street in such a manner or under such conditions as to leave available insufficient width of the roadway for the free movement of vehicular traffic.

**§ 36-169. Parking for certain purposes prohibited. [Traf. Code § 25; amended 6-23-1975 by Ord. No. 1061]**

- A. No person shall park a vehicle upon any street for the principal purpose of:
  - (1) Greasing or repairing such vehicle, except repairs necessitated by an emergency.
  - (2) Selling merchandise from such vehicle, except in a duly established market place, or when so authorized or licensed under the ordinances of this City.

**§ 36-170. Parking limited between 2:00 a.m. and 6:00 a.m. [Traf. Code §§ 25, 83k; amended 2-18-1980 by Ord. No. 1187]**

- A. It shall be unlawful for any person to park, allow to be parked, or allow to remain parked, any motor vehicle on any paved surface of any public street of the City between the hours of 2:00 a.m. and 6:00 a.m.
- B. The Traffic Engineer shall erect signs giving notice of the provisions of this section.
- C. Specific blocks of specific streets may be permitted as exceptions to the foregoing general provisions (in Subsection A), when so designated by the Traffic Engineer with the consent of the City Commission.
- D. Vehicles parked in violation of Subsection A shall be subject to immediate impoundment, in addition to being ticketed, if, in the opinion of the director of public works or his designee, the vehicle or vehicles are interfering or will interfere with the performance of necessary street maintenance service, including but not

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of the Traffic Engineer, with the consent of the City Commission, to place prohibitions or restrictions on specific streets and derived the former Traffic Code and Ord. No. 1110, § 1, adopted 3-28-1977.

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limited to street cleaning or snow plowing operations.

§ 36-175

**§ 36-171. Stopping or parking on pedestrian, special event or play street. [Traf. Code § 83i]**

It shall be unlawful for any person to stop or park any motor vehicle on any pedestrian, special event or play street established pursuant to § 36-16 in violation of the Traffic Engineer's order relating to such street.

**§ 36-172. Parking or stopping in alleys. [Traf. Code § 26]**

No person shall park or stop a vehicle within any public court or alley, unless such parking is permitted or such stopping is required by other laws, posted signs or directions of a police officer, unless the same is a commercially licensed vehicle actually being loaded or unloaded, and then for a period not to exceed one hour; provided, however, that if the space remaining for the passage of other vehicles is eight feet or less, such period shall not exceed 10 minutes.

**§ 36-173. Parking or standing between curb or drainage line and sidewalk or grassy parkway. [Traf. Code § 23; amended 10-30-1995 by Ord. No. 1603]**

No motor vehicle shall be parked or allowed to stand between the curb and sidewalks, between the curb and the right-of-way line, or on any grassy parkway of any curbed public street including driveway approaches within the public right-of-way. Unless otherwise prohibited, motor vehicles may be parked or allowed to stand between the drainage line and sidewalk, between the drainage line and the right-of-way line, or on a grassy parkway along uncurbed public streets provided the vehicles are parked parallel to the road edge no more than one vehicle deep and do not obstruct traffic. Any vehicle lawfully parked on a curblawn area overnight must be completely off of and not overhang the paved street surface. The Traffic Board may, in its discretion, prohibit parking adjacent to uncurbed streets. Any vehicle parked upon any curblawn area which is not equipped with proper and current registration or a proper and current license plate shall be subject to impoundment.

**§ 36-174. Parking of trailers, house cars, etc. [Traf. Code § 25]**

No unattached trailer or semitrailer shall be parked at any time in or upon the public streets of the City, except when it is necessary for loading or unloading. No vehicle with a trailer, house car or mobile home attached thereto shall be parked on any public street where angle parking is allowed nor shall it be parked for a period of more than three hours on any public street in the City.

**§ 36-175. Parking meters; on- and off-street parking facilities; pay-in-advance boxes. [Traf. Code §§ 27, 83, 84; amended 6-4-1984 by Ord. No. 1324; 2-21-1994 by Ord. No. 1568; 8-21-1995 by Ord. No. 1595; 7-1-2002 by Ord. No. 1735]**

- A. The Traffic Engineer is hereby authorized to determine and designate metered parking zones on City streets and in all parking facilities, owned, leased or managed by the City, to establish maximum lawful time limits of parking within those zones, and to install and maintain as many parking meters as necessary in such zones, where it is determined that the installation of parking meters shall be necessary to aid in the regulation, control and inspection of the parking of vehicles. The parking meters may be of whatever type is determined by the City Commission.
- B. When parking meters are erected adjacent to a space marked for parking, no person shall stop or park a vehicle in such space, or permit the same to remain thereon, unless the proper coin has been deposited in the meter and the meter shows that the allotted time has not expired, except on Sundays and legal holidays.
- C. Where maximum lawful time limits of parking are established within metered parking zones, no person shall park a vehicle or permit the same to remain within said zone for a time period in excess of the established lawful limit between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, except legal holidays. Each additional expiration of the established lawful maximum time limit for a metered parking zone shall

- § 36-175 constitute a separate violation. Where maximum lawful, free, time-limited parking is established within parking zones, no person shall park a vehicle or permit the same to remain within said zone for a time period in excess of the established lawful limit between the hours of 6:00 a.m. and 6:00 p.m., except Sunday and legal holidays. Each additional expiration of the established lawful, free time-limited parking zone shall constitute a separate violation. **[Amended 1-3-2011 by Ord. No. 1877]**
- § 36-178
- D. Every vehicle shall be parked wholly within the metered parking space for which the meter shows parking privilege has been granted. **[Amended 1-3-2011 by Ord. No. 1877]**
- E. No person shall place or maintain upon any street any parking meter bearing thereon any commercial advertising. **[Amended 1-3-2011 by Ord. No. 1877]**
- F. In all on-and-off street parking facilities owned or leased by the City for public parking, a vehicle shall be parked entirely within a marked parking space, and shall not occupy more than one parking space. A violation of this subsection shall be subject to a fine in an amount equal to that charged for double parking in § 36-185 of this Code. **[Amended 1-3-2011 by Ord. No. 1877]**
- G. The City of Kalamazoo may establish pay-in-advance boxes in parking areas, lots or facilities owned, leased, or managed by the City for public parking, for persons to pay for parking in a designated parking spot by depositing money in the slot for said designated parking spot in the pay-in-advance box. When pay-in-advance boxes are so established, no person shall stop or park a vehicle in such designated parking spot unless the proper amount of money has been deposited in the slot in the box for that designated parking spot. Where maximum lawful time limits of parking are established in pay-in-advance parking areas, lots or facilities, no person shall park a vehicle or permit the same to remain within said area, lot or facility for a time period in excess of the established lawful limit. Each additional expiration of the established lawful maximum time limit shall constitute a separate violation. The fines for a violation of this subsection shall be the same as set forth in the schedule of fines for an expired meter pursuant to § 36-185 of this Code, as amended. **[Amended 1-3-2011 by Ord. No. 1877]**

**§ 36-176. Breakdowns. [Traf. Code § 22h]**

In case of the breakdown of a vehicle, the driver shall immediately take all reasonable precautions to prevent accidents by warning other drivers thereof by means of flares, lights or other signals.

**§ 36-177. Starting vehicle from parked position. [Traf. Code § 22g]**

- A. The operator of a vehicle starting from a parked position shall give moving vehicles the right-of-way and shall give a timely and visible warning signal before so starting.
- B. The operator of a vehicle parked at an angle to the curb and about to start shall give moving vehicles the right-of-way and shall not back such vehicle from the curb into the moving lane of traffic, unless such maneuver can be made in safety and without conflict with moving vehicles.

**§ 36-178. Establishment and use of curb-loading zones. [Traf. Code §§ 28, 831]**

- A. The Traffic Engineer is hereby authorized to determine the location of passenger and freight curb-loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which such zones shall be restricted for loading purposes.
- B. No person shall stop, stand or park a vehicle for any purpose or period of time, except for the expeditious loading or unloading of passengers, in any place marked as a passenger curb loading zone during hours when the regulations applicable to such passenger curb loading zone are effective, and then only for a period not to exceed five minutes.
- C. No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious

§ 36-178 unloading and delivery or pickup and loading of materials, in any place marked as a freight curb loading zone during hours when the provisions applicable to such zone are in effect; provided that, the driver of a vehicle may stop temporarily at a place marked as a freight curb loading zone, for the purpose of and while actually engaged in loading or unloading passengers, when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone. § 36-183

**§ 36-179. Loading and unloading at an angle to curb. [Traf. Code § 22d]**

No person shall stop, stand or park any vehicle at right angles to the curb, for the purpose of loading or unloading merchandise, unless signs permitting the same are posted at such place.

**§ 36-180. Establishment and use of bus stops and taxicab stands. [Traf. Code §§ 28, 83m]**

- A. The Traffic Engineer is hereby authorized to establish bus stops, bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets, in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public. Every such stop or stand shall be designated by appropriate signs, which the Traffic Engineer may cause to be erected by the carrier for whom it is designated, unless otherwise directed by the City Commission.
- B. No person shall stop, stand or park a vehicle, other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading or unloading of passengers and when such stopping does not interfere with any bus or taxicab about to enter such zone; provided, however, that parking in a bus stop at any time, when buses are not scheduled upon the streets of this City, shall not be a violation of this subsection.

**§ 36-181. Restriction on standing or parking of buses. [Traf. Code § 28]**

The operator of a bus shall not stand or park upon any street in any business district at any place other than a bus stop. This provision shall not prevent the operator of any bus from temporarily stopping, in accordance with general traffic regulations, for the purpose of loading or unloading passengers.

**§ 36-182. Parking ticket or notice of violation. [P.S. Code § PS750.5; Traf. Code § 86b; amended 9-17-1979 by Ord. No. 1174; 12-9-1985 by Ord. No. 1366]**

- A. Whenever any motor vehicle without driver is found parked or stopped in violation of any of the provisions of this chapter or any order promulgated under this chapter, or in violation of state law, the police officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a parking ticket or notice of violation. The City Manager may delegate to other persons the power to issue and affix such tickets or notices for parking violations, but no other power normally exercised by a police officer or public safety officer in the exercise of his normal duties.
- B. The issuance of a parking ticket or notice of violation by a police officer or public safety officer or other authorized person shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau. It shall also indicate the address of the bureau, the hours during which the bureau is open, the amount of the penalty scheduled for the offense of the person to whom the ticket was issued and advise that a civil infraction citation will be sought if such person fails to respond within the prescribed time.

**§ 36-183. Presumption as to responsibility for parking violation. [Traf. Code § 29]**

In any proceeding for violation of the parking provisions of this chapter, the registration of ownership of the



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 plate displayed on such motor vehicle shall constitute, in evidence, a prima facie presumption that the owner of such motor vehicle was the person who parked or placed such motor vehicle at the point where such violation occurred. In case two or more persons are the registered owners, either may be presumed to be the person who parked or placed such motor vehicle as aforesaid. In case such motor vehicle is or has been rented or leased from a commercial leasing establishment or service, it shall be presumed, as prima facie evidence, that the person whose name appears as lessee on the lease agreement was the person who parked or placed such motor vehicle at the point where such violation occurred. In case two or more persons signed the lease agreement, as lessees, either may be presumed to be the person who parked or placed the motor vehicle as aforesaid.

**§ 36-184. Parking Violations Bureau generally. [P.S. Code §§ PS750.1—PS750.4; amended 9-17-1979 by Ord. No. 1174]**

- A. Pursuant to § 8395 of the Revised Judicature Act, State of Michigan, as amended, being § 600.8395 of the Michigan Compiled Laws, a Parking Violations Bureau is hereby established for the purpose of handling alleged parking violations within the City and to collect and retain civil fines and costs prescribed in the ordinance. The Parking Violations Bureau shall be under the supervision and control of the City Manager.
- B. The City Manager shall, subject to the approval of the City Commission, establish a convenient location for the Parking Violations Bureau, and the City Manager shall appoint qualified City employees to administer the bureau and adopt rules and regulations for the operation thereof.
- C. No violation not scheduled in § 36-185 shall be disposed of by the Parking Violations Bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the bureau, and in any case, the person in charge of such bureau may refuse to dispose of such violation, in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.
- D. No violation may be settled at the Parking Violations Bureau, except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense, and in no case shall the person who is in charge of the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to the alleged violation. No person shall be required to dispose of a parking violation at the Parking Violations Bureau and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof, if he so desires. The unwillingness of any person to dispose of any violation at the Parking Violations Bureau shall not prejudice him or in any way diminish the rights, privileges and protection accorded to him by law.

**§ 36-185. Schedule of fines and late fees for parking violations. [P.S. Code § PS750.6; amended 6-9-1975 by Ord. No. 1059; 6-23-1975 by Ord. No. 1060; 5-2-1977 by Ord. No. 1112; 12-26-1979 by Ord. No. 1181; 6-1-1987 by Ord. No. 1414; 2-24-1992 by Ord. No. 1524; 2-15-1999 by Ord. No. 1668; 3-30-2001 by Ord. No. 1717; 3-17-2003 by Ord. No. 1756; 6-16-2008 by Ord. No. 1841; 5-2-2016 by Ord. No. 1939]**

The schedule of fines and late fees for parking violations shall be as follows, unless otherwise provided by ordinance:

Violation	Initial Fine	Penalty After 7	Penalty After 14	Penalty After 30
		Days	Days	Days
Expired meter <sup>1</sup>	\$15.00	\$30.00	\$40.00	\$50.00
Overtime	\$15.00	\$30.00	\$40.00	\$50.00
Loading zone	\$20.00	\$40.00	\$50.00	\$60.00
15 feet of fire hydrant	\$30.00	\$60.00	\$70.00	\$80.00
Parked in alley	\$20.00	\$40.00	\$50.00	\$60.00

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<b>Violation</b>	<b>Initial Fine</b>	<b>Penalty After 7 Days</b>	<b>Penalty After 14 Days</b>	<b>Penalty After 30 Days</b>
Curb lawn	\$20.00	\$40.00	\$50.00	\$60.00
Over 1 foot from curb	\$20.00	\$40.00	\$50.00	\$60.00
Parking against traffic	\$20.00	\$40.00	\$50.00	\$60.00
No parking here to corner	\$20.00	\$40.00	\$50.00	\$60.00
No parking anytime	\$20.00	\$40.00	\$50.00	\$60.00
No parking between drives	\$20.00	\$40.00	\$50.00	\$60.00
No parking 11:00 p.m. to 6:00 a.m.	\$15.00	\$30.00	\$40.00	\$50.00
No stopping or standing	\$20.00	\$40.00	\$50.00	\$60.00
Bus stop	\$20.00	\$40.00	\$50.00	\$60.00
Taxi zone	\$20.00	\$40.00	\$50.00	\$60.00
Double parking	\$30.00	\$60.00	\$70.00	\$80.00
Parked on sidewalk	\$20.00	\$40.00	\$50.00	\$60.00
No permit City lot	\$15.00	\$30.00	\$40.00	\$50.00
Blocking drive	\$20.00	\$40.00	\$50.00	\$60.00
Obstructing traffic	\$30.00	\$60.00	\$70.00	\$80.00
Keys in ignition	\$20.00	\$40.00	\$50.00	\$60.00
Not parked within space provided	\$20.00	\$40.00	\$50.00	\$60.00
No parking between signs	\$20.00	\$40.00	\$50.00	\$60.00
Obedience to angle parking signs	\$20.00	\$40.00	\$50.00	\$60.00
Parking within intersection	\$30.00	\$60.00	\$70.00	\$80.00
Fire lane	\$30.00	\$60.00	\$70.00	\$80.00
Side yard	\$20.00	\$40.00	\$50.00	\$60.00
Blocking emergency exit	\$30.00	\$60.00	\$70.00	\$80.00
Blocking fire escape	\$30.00	\$60.00	\$70.00	\$80.00
Taking two spaces	\$20.00	\$40.00	\$50.00	\$60.00
30 feet of stop sign	\$20.00	\$40.00	\$50.00	\$60.00
Within 20 feet of crosswalk	\$20.00	\$40.00	\$50.00	\$60.00
Within 15 feet of intersection	\$20.00	\$40.00	\$50.00	\$60.00
Alternate side of street parking	\$15.00	\$30.00	\$40.00	\$50.00
City vehicles only	\$20.00	\$40.00	\$50.00	\$60.00
Rented meter (bags)	\$20.00	\$40.00	\$50.00	\$60.00
No parking except Sunday	\$20.00	\$40.00	\$50.00	\$60.00
Front yard	\$20.00	\$40.00	\$50.00	\$60.00
Other, as described	\$15.00	\$30.00	\$40.00	\$50.00
Handicapped vehicles only	\$75.00	\$100.00	\$125.00	\$150.00

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<b>Violation</b>	<b>Initial Fine</b>	<b>Penalty After 7 Days</b>	<b>Penalty After 14 Days</b>	<b>Penalty After 30 Days</b>
Parking trailers, mobile homes, etc.	\$20.00	\$40.00	\$50.00	\$60.00
Hotel and center vehicles only	\$10.00	\$20.00	\$30.00	\$40.00

NOTE:

<sup>1</sup> Expired meter violations shall be voided upon request if the vehicle in question has not received an expired meter violation notice in the preceding six months.

**§ 36-186. Parking or storage of motor vehicles at or adjacent to residential properties.<sup>151</sup> [Added 11-16-1998 by Ord. No. 1662; amended 5-3-1999 by Ord. No. 1673; 8-5-2002 by Ord. No. 1742]**

- A. For the purposes of protecting the public health, safety and general welfare, for the enhancement of the visual environment of the City and for the purpose of preserving residential neighborhoods, the parking, storage or leaving unattended of any motor vehicle on any surface other than an approved parking surface at any property used primarily or exclusively as a single-family residence, duplex, or multifamily dwelling, or at a vacant lot adjacent to any property used primarily or exclusively for residential purposes anywhere in the City is hereby declared to be a public nuisance and is hereby prohibited.
- B. For the purposes of this section, the term "approved parking surface" shall mean an area surfaced with concrete, asphalt, gravel, or similar material. Such surfacing shall have adequate coverage and barriers sufficient to confine the material. A driveway shall be surfaced with concrete, asphalt, gravel or similar material. Such surfacing also shall have adequate coverage and barriers sufficient to confine the material, as approved by the Building Official.
- C. For the purposes of this section, the term driveway shall mean an access roadway leading from an authorized curb cut to a garage, carport or required parking space, including turnaround and other vehicle maneuvering areas, and including circular driveways from an authorized curb cut to another authorized curb cut.
- D. Nothing in this section shall prohibit the parking of motor vehicles upon driveways.
- E. Nothing in this section shall be deemed to prohibit the City from taking action to abate any nuisance or blighting condition caused by the parking of vehicles in any residential district or at any property used primarily or exclusively as a single-family residence, duplex, or multifamily dwelling.
- F. The prohibitions in this section shall not apply to the following:
  - (1) Recreational vehicles parked at any single-family home or duplex, provided that they are stored in the side or back yard.
  - (2) Vehicles being used for governmental or utility purposes.
  - (3) Vehicles used for moving, construction, repair, cleaning, or similar activities at a single-family residence, duplex, or multifamily dwelling.
  - (4) Any other parking of vehicles expressly authorized by another section of this code, or by special permission of the Kalamazoo City Commission, or by the Chief of Public Safety or his or her designee.
- G. Each day that any vehicle is parked, stored, or left unattended in violation of this section shall be deemed a separate violation. Any vehicle parked, stored, or left unattended in violation of this section may be issued a parking citation. Upon a finding of responsibility, the owner of the vehicle shall be assessed a fine of \$25 per

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<sup>151</sup>Editor's Note: Ord. No. 1662, adopted 5-3-1999, repealed Ord. No. 1483, adopted 1-29-1990, which also regulated parking or storage of motor vehicles in required front yard in residential districts.



ARTICLE VI  
**Snowmobiles**

**§ 36-197. Registration. [Traf. Code § 73A]**

No snowmobile shall be operated within the City unless it is currently registered as required by state law.

**§ 36-198. Equipment. [Traf. Code § 73A]**

A. No person shall operate a snowmobile in the City:

- (1) Unless it has at least one headlight, one taillight and adequate brakes capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour.
- (2) During the hours from 1/2 hour after sunset to 1/2 hour before sunrise without displaying a lighted headlight and a lighted taillight.
- (3) Unless it is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

**§ 36-199. Operation on property of another. [Traf. Code § 73A]**

No person shall operate a snowmobile on the property of another unless he has in his immediate possession a signed statement allowing the use of such property from the owner or person in charge of such property.

**§ 36-200. Operation on City-owned property generally. [Traf. Code § 73A]**

No person shall operate a snowmobile in any City park or golf course or on any other City-owned property, except that the City, in its discretion, may allow such operation for special events, when such permission is requested by a reputable organization or individual.

**§ 36-201. Operation on streets or highways. [Traf. Code § 73A]**

A. No person shall operate a snowmobile upon the traveled portion of any public roadway, except as follows:

- (1) Owners of properly registered snowmobiles may cross public streets or highways, with the exception of limited access highways and freeways.
- (2) Snowmobiles may be operated on a street or highway during a period of emergency, when such emergency has been declared by the City.

**§ 36-202. Operation while under influence of liquor or drugs. [Traf. Code § 73A]**

No person shall operate a snowmobile while under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol.

**§ 36-203. Speed. [Traf. Code § 73A]**

No person shall operate a snowmobile at a rate of speed greater than is reasonable and proper with due regard for conditions then existing.

**§ 36-204. Off-road vehicles. [Added 7-19-2021 by Ord. No. 2035]**

A. A person is prohibited from operating an ORV or other motorized vehicle that is not registered under the Code upon a public street except to cross a street, at a right angle for the limited purpose of getting from one area to another, if the operation can be done safely. The operator must bring the vehicle to a complete stop

§ 36-204 before proceeding across a street and must yield the right-of-way to oncoming traffic. This section is not applicable to snowmobiles. § 36-214

B. In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a street pursuant to the Code is in a collision on a street with an ORV that is not registered under the Code, the operator of the ORV involved in the collision is considered prima facie negligent.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

ATV — A vehicle with three or more wheels that is designed for off-road use, has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 1,000 cc gasoline engine or an engine of comparable size using other fuels.

CODE — The Michigan Vehicle Code, 1949 PA 300, as amended.<sup>152</sup>

OPERATE — To ride in or on, and be in actual physical control of the operation of, an ORV.

OPERATOR — An individual who operates or is in actual physical control of the operation of an ORV.

ORV — A motor-driven, off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. A multitrack or multi-wheel-drive vehicle, a motorcycle or related two-wheel vehicle, a vehicle with three or more wheels, an amphibious machine, a ground-effect air-cushion vehicle, or other means of transportation may be an ORV. An ATV is an ORV. An ORV does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, or a construction or logging vehicle used in performance of its common function.

STREET — A street, avenue, boulevard, highway, road, lane, alley, or other public way intended for use by motor vehicles, bicycles, pedestrians, and other legal users.

D. A person who violates this section is responsible for a municipal civil infraction punishable by a \$200 civil fine and court costs.

§ 36-205. (Reserved)

§ 36-206. (Reserved)

§ 36-207. (Reserved)

§ 36-208. (Reserved)

§ 36-209. (Reserved)

§ 36-210. (Reserved)

§ 36-211. (Reserved)

§ 36-212. (Reserved)

§ 36-213. (Reserved)

§ 36-214. (Reserved)

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<sup>152</sup>.Editor's Note: See MCLA § 257.1 et seq.

ARTICLE VII  
Bicycles

**§ 36-215. Application of article. [Traf. Code § 89; amended 1-7-2019 by Ord. No. 1976]**

The provisions of this article shall apply whenever a bicycle is operated upon any street or sidewalk, subject to those exceptions stated herein. An individual lawfully operating a bicycle upon a sidewalk or a pedestrian crosswalk has all of the rights and responsibilities applicable to a pedestrian using that sidewalk or crosswalk.

**§ 36-215.1. Application of chapter to riders. [Traf. Code § 62]**

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under this chapter, except as to those provisions which, by their nature, can have no application. Where such person dismounts from the bicycle he shall be subject to the regulations applicable to pedestrians.

**§ 36-216. Use of seat required; carrying excess passengers. [Traf. Code § 63]**

- A. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

**§ 36-217. Light and reflector. [Traf. Code § 73]**

Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front, which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear, which shall be visible from all distances from 50 feet to 300 feet to the rear, when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

**§ 36-218. Signal device. [Traf. Code § 73]**

No person shall operate a bicycle, unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that such vehicle shall not be equipped with, nor shall any person use upon such vehicle, any siren or whistle.

**§ 36-219. Brake. [Traf. Code § 73]**

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

**§ 36-220. Operator's hands to be on handle bars. [Traf. Code § 66]**

The hands of the operator of a bicycle shall be on the handle bars at all times, except when he is in the act of signaling.

**§ 36-221. Speed. [Traf. Code § 65]**

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

§ 36-222

§ 36-235

**§ 36-222. Duty to ride on right side of roadway. [Traf. Code § 64]**

Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

**§ 36-223. Riding more than two abreast. [Traf. Code § 64]**

Persons riding bicycles upon a roadway shall not ride more than two abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles.

**§ 36-224. Required use of paths. [Traf. Code § 64]**

Wherever usable paths for bicycles have been provided adjacent to a roadway, bicycle riders shall use such paths and shall not use the roadway.

**§ 36-225. Riding on sidewalks or the Kalamazoo Mall generally. [Traf. Code § 68; amended 10-31-1983 by Ord. No. 1294; 1-7-2019 by Ord. No. 1976]**

- A. No person shall ride any bicycle upon any sidewalk, part of sidewalk, street, within a park, or on the Kalamazoo Mall where signs have been erected prohibiting bicycle riding.
- B. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian.
- C. The operator of a bicycle who emerges from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk area and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

**§ 36-226. (Reserved)<sup>153</sup>**

**§ 36-227. Parking. [Traf. Code § 67]**

No person shall stand or park a bicycle upon a street other than upon the roadway against the curb, or upon the sidewalk, in a rack to support the bicycle, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

**§ 36-228. (Reserved)**

**§ 36-229. (Reserved)**

**§ 36-230. (Reserved)**

**§ 36-231. (Reserved)**

**§ 36-232. (Reserved)**

**§ 36-233. (Reserved)**

**§ 36-234. (Reserved)**

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153. Editor's Note: Former § 36-226, Obedience to signs prohibiting riding on sidewalk, street, or the Kalamazoo Mall, as amended 10-31-1983 by Ord. No. 1294, was repealed 1-7-2019 by Ord. No. 1976.



§ 36-235  
§ 36-235. (Reserved)

§ 36-238

§ 36-236. (Reserved)

§ 36-237. (Reserved)

§ 36-238. (Reserved)



ARTICLE VIII  
Accidents

**§ 36-239. Stopping at the scene of an accident resulting in personal injury.<sup>154</sup> [Amended 9-25-1978 by Ord. No. 1139; 7-16-2007 by Ord. No. 1832]**

The driver of a vehicle who knows or who has reason to believe that he or she has been involved in an accident upon either public or private property, when the property is open to travel by the public, resulting in injury, serious impairment of a body function or death to a person (i) shall immediately stop his or her vehicle at the scene of the accident and shall remain there until the requirements of § 36-241 are fulfilled, or (ii) shall immediately report the accident to the Public Safety Department or a public safety officer to fulfill the requirements of § 36-241 if there is a reasonable and honest belief that remaining at the scene will result in further harm. Every stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor, the maximum penalty for which is 93 days in jail and/or a fine of \$500.

**§ 36-240. Stopping at the scene of an accident resulting only in property damage. [Amended 9-25-1978 by Ord. No. 1139; 7-16-2007 by Ord. No. 1832]**

The driver of a vehicle who knows or who has reason to believe that he or she has been involved in an accident upon either public or private property, when the property is open to travel by the public, resulting only in damage to a vehicle which is driven or attended by any person (i) shall immediately stop his or her vehicle at the scene of the accident and shall remain there until the requirements of § 36-241 are fulfilled, or (ii) shall immediately report the accident to the Public Safety Department or a public safety officer to fulfill the requirements of § 36-241 if there is a reasonable and honest belief that remaining at the scene will result in further harm. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor, the maximum penalty for which is 93 days in jail and/or a fine of \$500.

**§ 36-241. Duty of drivers at the scene of an accident to exchange information and give aid. [Amended 9-25-1978 by Ord. No. 1139; 7-16-2007 by Ord. No. 1832]**

The driver of a vehicle who knows or who has reason to believe that he or she has been involved in an accident with an individual or with another vehicle which is driven or attended by any person shall give his or her name, address, and the registration number of the vehicle he or she is driving, including the name and address of the owner, and exhibit his or her operator's or chauffeur's license to a public safety officer, the person struck or the driver or occupants of the vehicle with which he or she has collided and shall render to any person injured in such accident reasonable assistance in securing medical aid or transportation of any injured person.

**§ 36-242. Duty of a driver striking only an unattended vehicle. [Amended 9-25-1978 by Ord. No. 1139; 7-16-2007 by Ord. No. 1832]**

The driver of any vehicle which collides upon either public or private property with any vehicle which is attended or unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the vehicle or, if such owner cannot be located, shall forthwith report it to the Public Safety Department or public safety officer.

**§ 36-243. Duty of driver striking objects upon or adjacent to a street. [Amended 9-25-1978 by Ord. No. 1139; 4-2-1990 by Ord. No. 1491; 7-16-2007 by Ord. No. 1832]**

A. The driver of any vehicle involved in an accident resulting only in damage to utility poles or other fixtures,

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<sup>154</sup> Editor's Note: Ord. No. 1139 amended §§ 36-239 through 36-243 to read as herein set out. Formerly said sections were derived from Traf. Code §§ 74—76, 78, 79.

§ 36-243 signs, fences, trees, shrubbery, structures or other objects legally upon, adjacent to or in proximity to a highway, street or other place open to the general public shall take immediate steps to locate and notify the owner or person in charge of such property of the accident and of his or her name and address, the registration number of the vehicle he or she was driving and proof of insurance and shall upon request exhibit his or her operator's or chauffeur's license to that owner or person and, if such owner or person cannot be found, shall immediately report the accident, by the quickest means of communication, to the Public Safety Department or public safety officer. § 36-249

B. The officer receiving such report or his or her commanding officer shall forward each individual report to the Director of State Police on forms prescribed by him, which shall be completed in full by the investigating officer. The Director of State Police shall analyze each report relative to the cause of the reported accident and shall prepare for public use the information compiled from the reports.

**§ 36-244. Reports generally. [Traf. Code §§ 76, 77; amended 7-16-2007 by Ord. No. 1832]**

A. The driver of a vehicle involved in an accident resulting in the injury or death of any person or any property damage, to an apparent extent totaling \$1,000 or more, shall immediately report that accident, by the quickest means of communication, to the Public Safety Department of public safety officer.

B. Whenever the driver of a vehicle is physically incapable of making a required accident report and there was another occupant in the vehicle at the time of the accident capable of making a report, such occupant shall report or cause to be made a report of the accident.

**§ 36-245. Written and supplemental reports. [Traf. Code §§ 86f, 87d]**

The Police Department may require any driver of a vehicle involved in an accident to file written reports and supplemental reports concerning the accident, whenever the original information is insufficient, in the opinion of the Police Department, and may require witnesses of such accidents to render reports to the Police Department. Every accident report required to be made in writing shall be made on a form approved by the commissioner of state police, where such form is available, and it shall be the duty of the Police Department to secure such forms.

**§ 36-246. Reports by garages. [Traf. Code § 80]**

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident, or struck by any bullet, shall report to the Police Department immediately after such vehicle is received and before any repairs are made to such vehicle, giving the motor number, registration number and the name and address of the owner and operator of such vehicle, together with any other discernible information.

**§ 36-247. Report by investigating officer. [Traf. Code § 86f]**

Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident of which a report must be made, as required in this article, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, shall promptly, after completing such investigation, forward a written report of such accident to the Police Department. It shall be the duty of all police officers to report to the commissioner of state police, on the form provided, reports received of all accidents.

**§ 36-248. Use of reports. [Traf. Code §§ 81, 86d; amended 9-25-1978 by Ord. No. 1139]**

The reports required by this article shall not be available for use in any court action, but shall be for the purpose of furnishing statistical information as to the number and cause of accidents.

§ 36-249

§ 36-261

**§ 36-249. Preservation of reports; availability to Traffic Engineer, etc. [Traf. Code § 86d]**

The Police Department shall receive and maintain a suitable system of filing traffic accident reports made to it under this article or under state law. Accident reports, or cards referring to them, shall be filed alphabetically by location. Such reports shall be available for the use and information of the Traffic Engineer. Such reports shall also be available to governmental agencies for the purpose of furnishing statistical information as to the number and cause of accidents.

**§ 36-250. Accident studies. [Traf. Code § 86e]**

Whenever traffic accidents at any particular location become numerous, the Police Department shall cooperate with the Traffic Engineer in conducting studies of such accidents and determining remedial measures.

**§ 36-251. (Reserved)**

**§ 36-252. (Reserved)**

**§ 36-253. (Reserved)**

**§ 36-254. (Reserved)**

**§ 36-255. (Reserved)**

**§ 36-256. (Reserved)**

**§ 36-257. (Reserved)**

**§ 36-258. (Reserved)**

**§ 36-259. (Reserved)**

**§ 36-260. (Reserved)**

**§ 36-261. (Reserved)**



ARTICLE IX  
**Impoundment of Vehicles**

**§ 36-262. When authorized. [Traf. Code § 87c; amended 3-23-1981 by Ord. No. 1221]**

- A. Members of the Police Department and the Department of Transportation are hereby authorized to remove a vehicle from a street or highway to a place of safety, or to a garage designated or maintained by the Police Department, under the following circumstances:
- (1) When any vehicle is left unattended upon any bridge, viaduct, causeway or subway, where such vehicle constitutes an obstruction to traffic.
  - (2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody or removal.
  - (3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.
  - (4) When a vehicle is found being driven upon the streets and is not in proper condition to be driven.
  - (5) When a vehicle is left unattended upon a street continuously for more than 48 hours, then it may be presumed to be abandoned.
  - (6) When the driver of a vehicle is taken into custody by the Police Department and such vehicle would thereby be left unattended upon a street.
  - (7) When removal is necessary in the interest of public safety because of fire, flood, storm, snow or other emergency reason.
  - (8) When six or more citations have been issued within one year against the driver or owner of a vehicle, and such citations have been disregarded.
  - (9) When a vehicle is parked in front of a public or private driveway or in such a manner as to constitute a definite hazard or obstruction to the normal movement of traffic on a public street or from a public or private driveway onto a public street.

**§ 36-263. Notice to owner. [Traf. Code § 86c]**

Whenever an officer removes a vehicle from a street, as authorized in § 36-262, and the officer knows or is able to ascertain the name and address of the owner thereof, such officer shall, within a reasonable period of time, give or cause to be given notice in writing to such owner of the fact of such removal, and the reasons therefor, and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a garage, a copy of such notice shall be given to the proprietor of such garage.

**§ 36-264. Report when owner unknown. [Traf. Code § 86c]**

Whenever an officer removes a vehicle from a street, as authorized in § 36-262, and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as provided for in § 36-263, and in the event the vehicle is not returned to the owner within a period of three days, then and in that event the officer shall, within a reasonable period of time, send or cause to be sent a written report of such removal by mail to the commissioner of state police, and shall file a copy of such report with the proprietor of any garage in which the vehicle may be stored. Such report shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

§ 36-265

§ 36-276

**§ 36-265. Disposition. [Traf. Code § 87c; amended 10-28-1985 by Ord. No. 1364]**

A. In case of the impounding of a vehicle under this article, the Public Safety Department shall process the vehicle in accordance with the Abandoned Vehicle Act, MCLA § 257.252a et seq., as amended, or, if inapplicable, the department shall proceed as follows: The department is empowered to restore the same to the owner thereof, or his agent, upon the payment of all charges outstanding against the same, including unsettled citations in the amounts then prevailing and charges for towing and storage, or if such owner professes that the citations are not true and wishes to have the matter taken to court, the department may restore the same, upon prompt issuance of a complaint or appearance ticket against the owner, followed by plea of not responsible before a court of competent jurisdiction, and the payment of a bond equal to the amount of the outstanding citations and towing and storage charges. If the owner does not redeem the vehicle as provided herein, the department may offer the vehicle for sale at a public sale, following notice as provided in MCLA § 257.252d. If the vehicle is so sold, the money received from the public sale of the vehicle shall be applied in the following order of priority:

- (1) Towing and storage expenses;
- (2) Public Safety Department expenses;
- (3) Payment of all outstanding citations;
- (4) To the secured party, if any, in the amount of the debt outstanding on the vehicle;
- (5) Remainder to the owner.

**§ 36-266. (Reserved)**

**§ 36-267. (Reserved)**

**§ 36-268. (Reserved)**

**§ 36-269. (Reserved)**

**§ 36-270. (Reserved)**

**§ 36-271. (Reserved)**

**§ 36-272. (Reserved)**

**§ 36-273. (Reserved)**

**§ 36-274. (Reserved)**

**§ 36-275. (Reserved)**

**§ 36-276. (Reserved)**



ARTICLE X  
Pedestrians

**§ 36-277. Application of regular traffic-control signals to pedestrians. [Traf. Code §§ 1, 55a]**

- A. Whenever special pedestrian-control signals are not utilized, the regular traffic-control signals, as indicated in § 36-148, shall apply to pedestrians as follows:
- (1) Green indication. Pedestrians facing such signal may proceed across the roadway within any marked or unmarked crosswalk.
  - (2) Steady yellow indication. Pedestrians facing such signal are advised that there is insufficient time to cross the roadway and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.
  - (3) Steady red indication. Pedestrians facing such signal shall not enter the highway unless they can do so safely and without interfering with any vehicular traffic.
  - (4) Red with arrow. Pedestrians facing such signal shall not enter the highway unless they can do so safely and without interfering with vehicular traffic.

**§ 36-278. Special pedestrian-control signals. [Traf. Code § 1]**

- A. Whenever special pedestrian-control signals are installed, they shall be placed at the far end of each crosswalk and shall indicate a "walk" or "don't walk" interval. These special signals shall apply to pedestrians only, to the exclusion of any regular traffic-control signal or signals which may be present at the same location, as follows:
- (1) Walk interval: Pedestrians facing such signal may proceed across the highway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
  - (2) Don't walk (steady burning or flashing) interval: No pedestrian shall start to cross the highway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk interval of such signal shall proceed to the sidewalk or safety island while the don't walk interval of the signal is showing.

**§ 36-279. Establishment of crosswalks and safety zones. [Traf. Code § 83e]**

- A. The Traffic Engineer is hereby authorized:
- (1) To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at those places where he shall find that there is particular danger to pedestrians crossing the roadway, and when he shall further find that the existence of a crosswalk will reduce that danger.
  - (2) To establish safety zones of such kind and character and at such places where he shall find that there is particular danger to pedestrians, and which are consistent with state law, and where he shall find that the existence of a safety zone will reduce that danger.

**§ 36-280. Right-of-way at crosswalks. [Traf. Code §§ 6, 55; amended 1-7-2019 by Ord. No. 1977]**

- A. Except as otherwise provided in this article, where traffic-control signals are not in place or in operation, or traffic is being regulated by a public safety officer, the driver of a vehicle shall stop and yield the right-of-way to a pedestrian or bicyclist stopped at the curb, curblane, or ramp leading to the crosswalk and to every pedestrian and bicyclist crossing the roadway within 1) any marked crosswalk or 2) within any unmarked crosswalk at an intersection.
- B. Whenever any vehicle is stopped at either a marked crosswalk or an unmarked crosswalk at an intersection to

§ 36-280 permit a pedestrian or bicyclist to cross a roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. § 36-287

- C. A pedestrian or bicyclist shall stop at the curb, curblines, or ramp leading to a crosswalk before entering the roadway. A pedestrian or bicyclist shall not suddenly leave a curb or other place of safety and walk, run, or ride into the path of a vehicle that is so close to the crosswalk that it is difficult for the driver of the vehicle to yield.
- D. Every pedestrian or bicyclist crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all oncoming vehicles upon the roadway.
- E. A pedestrian or bicyclist crossing a roadway shall yield the right-of-way to an authorized emergency vehicle sounding an audible signal, unless engaged in an emergency run in which silence is required and displaying a flashing, oscillating, or rotating red or blue light.

**§ 36-281. Use of right half of crosswalk. [Traf. Code § 56]**

Pedestrians shall move, whenever practicable, upon the right half of a crosswalk.

**§ 36-282. Pedestrians to yield right-of-way in certain cases. [Traf. Code §§ 55, 58]**

- A. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
- B. A pedestrian shall yield the right-of-way to an authorized emergency vehicle under the conditions prescribed in § 36-24.

**§ 36-283. Manner of crossing roadway at other than marked crosswalk. [Traf. Code § 57]**

No pedestrian shall, except in a marked crosswalk, cross a roadway at any other place than by a route at right angles to the curb or by the shortest route to the opposite curb. No pedestrian shall cross diagonally from one corner to the other.

**§ 36-284. Crossing or entering street in dangerous manner or contrary to warning device. [Traf. Code §§ 55, 58]**

- A. No pedestrian shall cross or enter a public street in the City in a manner which endangers or is likely to endanger such pedestrian or others lawfully using the street.
- B. No pedestrian shall cross or enter a public street in a manner specifically forbidden by any lawful warning device or marking.

**§ 36-285. Passing through, around, over or under gate or barrier at railroad crossing or bridge. [Traf. Code § 55]**

No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

**§ 36-286. Walking on roadways. [Traf. Code § 59]**

Where sidewalks are provided, it shall be unlawful for pedestrians to walk upon an adjacent roadway. Where sidewalks are not provided, pedestrians shall, when practicable, walk on the left side of the roadway facing traffic which may approach from the opposite direction.

§ 36-287

§ 36-289

**§ 36-287. Hitchhiking. [Traf. Code § 60]**

No person shall stand on the roadway and solicit a ride from the operators of vehicles, other than duly licensed taxicabs, buses or other vehicles for hire. No operator shall stop his motor vehicle for the purpose of providing transportation to any person, except in areas where standing, stopping or parking is permitted.

**§ 36-288. Duty of driver approaching blind pedestrian. [Traf. Code § 61]**

Any driver of a vehicle who approaches within 10 feet of a person wholly or partially blind, carrying a cane or walking stick which is white or white tipped with red, or being led by a guide dog wearing a harness and walking on either side of or slightly in front of such blind person, shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid accident or injury to the person wholly or partially blind.

**§ 36-289. Splashing pedestrians. [Traf. Code § 44]**

No motor vehicle operator shall recklessly, willfully, wantonly or carelessly operate his vehicle in such manner as to splash snow, rain, water, mud, dirt or debris on any person then upon or near a sidewalk or crosswalk.



**Chapter 37**

**VEHICLES FOR HIRE**



§ 36-289

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 3-25-1985 by Ord. No. 1346.**

§ 36-289

**Amendments noted where applicable.]**

**GENERAL REFERENCES**

**City bus system — See Ch. 11.**

**Streets — See Ch. 33.**

**Carrying explosives or flammable liquids on buses, taxicabs or other public conveyances — See § 15-1.**

**Traffic Code — See Ch. 36.**

**Railroads — See Ch. 27.**

**Wreckers — See Ch. 40.**





ARTICLE I  
In General

**§ 37-1. Definitions. [Amended 9-30-1996 by Ord. No. 1623]**

When used in this chapter the following words, terms and phrases shall have the meanings specified herein:

**BUSINESS LICENSE** — The document permitting the owner of a vehicle for hire to operate a vehicle for hire business within City limits.

**CARD FRAME** — A device which is attached to the dash of a taxicab to enable a driver to display his or her identification card to passengers of a given taxicab.

**DRIVER'S LICENSE** — A document granted by the City permitting a person to drive a vehicle for hire upon City streets.

**LICENSE TAG** — A document issued by the City which certifies that the owner of a taxicab has received proper approval to operate said taxicab within the City limits.

**LIMOUSINE** — A motor-driven vehicle, other than a common carrier, used for the transportation of persons and for which the total charge for any given trip is agreed upon by the driver and the passenger before said vehicle departs from its place of origin.

**MANIFEST** — A daily record of all trips made by a given taxicab prepared by the taxicab driver, showing the time, place of origin and destination of each trip as well as the amount of the fare charged.

**OPERATING PERMIT** — A written permit issued by the City Clerk authorizing a person to operate a quadricycle on City streets. **[Added 12-7-2015 by Ord. No. 1936]**

**OWNER** — Any person, firm, partnership, or corporation that either owns, is the lessee of, or is the purchaser under a contract of, a motor vehicle or quadricycle which is used as a vehicle for hire under the provisions of this chapter. **[Amended 12-7-2015 by Ord. No. 1936]**

**PARTY OF PASSENGERS** — One person traveling alone or two or more persons who have retained the services of a vehicle for hire and have arranged in advance of entering the vehicle for hire to use the vehicle for hire together.

**QUADRICYCLE** — A vehicle that has fully operative pedals for propulsion entirely by human power; has at least four wheels and is operated in a manner similar to a bicycle; has at least six seats for passengers; is designed to be occupied by a driver and powered either by passengers providing pedal power to the drive train of the vehicle or by a motor capable of propelling the vehicle in the absence of human power; is used for commercial purposes; and is driven by the owner of the vehicle or an employee of the owner of the vehicle. **[Added 12-7-2015 by Ord. No. 1936]**

**QUADRICYCLE DRIVER** — A person who drives a quadricycle upon public streets and highways. **[Added 12-7-2015 by Ord. No. 1936]**

**RATE CARD** — The card displayed by a taxicab owner within each taxicab for which a license tag has been issued, describing the current permitted rate of fare.

**STAND** — The space reserved upon the public streets for the sole use of taxicabs.

**TAXICAB** — A motor-driven vehicle for hire used for the transportation of persons and for which the total charge for any given trip is not agreed upon by the driver and the passenger before the vehicle departs from its place of origin.

**VEHICLE FOR HIRE** — Includes quadricycles and any motor-driven vehicles used for the transportation for hire of passengers and shall include taxicabs and van service vehicles. **[Amended 12-7-2015 by Ord. No. 1936]**

**VEHICLE LICENSE** — Document issued by the City which certifies that the owner of a vehicle for hire (other than taxicab) has received proper approval to operator said vehicle for hire within the City limits.

§ 37-2

§ 37-9

**§ 37-2. Prior certificates and licenses to remain effective.**

All certificates of public convenience and necessity and all licenses granted under [former] Chapter 37 of this Code which are valid and in effect on the date of the enactment of Ordinance No. 1346 shall remain valid and effective through the 30th day of April next following the effective date of Ordinance 1346.

**§ 37-3. Exemptions from this chapter. [Amended 7-21-1986 by Ord. No. 1388; 9-30-1996 by Ord. No. 1623]**

The provisions of this chapter shall not apply to ambulances, buses operated by the City, church or school buses, common carriers licensed under Act 254 of the Public Acts of 1933<sup>155</sup> when operating along any route granted in the license or to limousines. The Chief of Public Safety may also exempt from the provisions of this chapter vehicles used in state or local government operated or subsidized programs.

**§ 37-4. Regulation of rates of fare.**

The rates of fare to be charged by the owner or driver of any vehicle for hire licensed under this chapter may be regulated by the City Commission, and, if rates of fare are regulated, it shall be unlawful for any owner or driver of any such vehicle for hire to charge any rate of fare in excess thereof.

**§ 37-5. (Reserved)**

**§ 37-6. (Reserved)**

**§ 37-7. (Reserved)**

**§ 37-8. (Reserved)**

**§ 37-9. (Reserved)**

ARTICLE II  
**Business License**

**§ 37-10. Required; licensee must be owner of vehicles for hire.**

No person shall operate any vehicle for hire in the City, without first having obtained a business license from the City Clerk authorizing such operation. The licensee must be the owner or lessee of all vehicles for hire operated under its authority.

**§ 37-11. Filing and contents of application.**

- A. All persons applying for a business license for one or more vehicles for hire shall file with the City Clerk a sworn application therefor on forms provided by the City Clerk stating as follows:
- (1) The name and address of the owner or owners. In the event that the owner is a copartnership or a corporation, a certified copy of the certificate of a copartnership or the articles of incorporation must accompany the application.
  - (2) The number of vehicles for hire actually owned or leased and operated by such owner on the date of such application.
  - (3) The number of vehicles for which a vehicle for hire business license is desired.
  - (4) Such other information as the City Clerk may require.

**§ 37-12. License fee.**

- A. The City Commission may establish, by resolution or motion, license fees for business licenses, vehicle licenses and license tags in such amounts as they shall deem appropriate from time-to-time to defray the reasonable costs of supervision regulation and control connected with the issuance of these licenses. No such licenses shall be issued unless and until the prescribed fee therefor has been paid.
- B. If any person holding a business license shall have such license revoked for any reason whatsoever, and other holders of business licenses shall, during the same license year in which such revocation is effected, place additional vehicles for hire in operation on the streets of the City, such vehicles for hire so placed in operation, not exceeding the number authorized under the business license so revoked, shall be authorized to operate without the payment of additional fees, until the expiration of such license year.

**§ 37-13. Issuance. [Amended 9-30-1996 by Ord. No. 1623]**

For each person who files a properly completed application for a business license, the Clerk, upon approval by the Chief of Public Safety, shall issue a business license, provided the applicant has complied with all the provisions of this chapter.

**§ 37-14. Information to be maintained on file with the City Clerk. [Amended 9-30-1996 by Ord. No. 1623]**

Every vehicle for hire owner shall maintain on file, with the City Clerk, his or her name, business address, garage address, and all business telephone numbers listed in his or her name, and shall, within 48 hours after any change therein, report such change to the City Clerk.

**§ 37-15. Assignment or transfer to new owner of vehicle. [Amended 9-30-1996 by Ord. No. 1623]**

Any change of ownership of, or title to, any vehicle for hire shall automatically revoke any license previously granted for the operation of such vehicle for hire unless the purchaser shall obtain the approval of the City Clerk for assignment or transfer of the license to him or her. Such approval shall be granted only upon a written application

§ 37-15 signed by the vendor and proposed vendee, setting forth the purpose, terms, conditions, and all of the facts of such assignment or transfer. The purchaser shall provide to the City Clerk, prior to the approval of such assignment or transfer, such other information as the Clerk may require consistent with the provisions of this chapter. § 37-20

**§ 37-16. New vehicle license or license tag for replacement vehicle. [Amended 9-30-1996 by Ord. No. 1623]**

- A. Whenever an owner sells or transfers title to a vehicle for hire for which a vehicle license or license tag has been issued, and within 30 days after such sale or transfer, purchases other vehicles for hire, the City Clerk, as a matter of right, upon written application within 30 days of such purchase, shall issue a new vehicle license or license tag for the operation of no greater number of vehicles for hire than those so sold or transferred, provided such owner has complied with all of the provisions of this chapter.
- B. Any owner whose vehicle for hire for which a vehicle license or license tag has been issued, destroys involuntarily or who voluntarily destroys any such vehicle for hire will, as a matter of right, upon written application to the City Clerk, within 30 days after such destruction, be issued a new vehicle license or license tag for the operation of no greater number of vehicles for hire than those so destroyed, upon satisfactory evidence presented to the City Clerk of such destruction, and provided the owner has complied with all provisions of this chapter.

**§ 37-17. Surrender when vehicle retired from service and not replaced.**

An owner who shall permanently retire any vehicle for hire from service, and not replace the same within 30 days thereof, shall immediately surrender the vehicle license or license tag issued for the operation of such vehicle for hire to the City Clerk.

**§ 37-18. Expiration.**

All business licenses, vehicle licenses, and license tags shall expire at midnight on the April 30 following the issuance thereof.

**§ 37-19. Renewal. [Amended 9-30-1996 by Ord. No. 1623]**

Upon application, at least 30 days prior to the expiration of any valid business license, the City Clerk may renew said license, or cause a new business license to be issued to the owner so licensed upon continued compliance with the provisions of this chapter. Once a new business license has been issued, new vehicle licenses or license tags may be issued upon compliance with the provisions of this chapter.

**§ 37-20. Suspension or revocation. [Amended 9-30-1996 by Ord. No. 1623]**

- A. Business licenses may be suspended or revoked by the City Commission at any time in the event:
  - (1) The owner fails to operate a vehicle for hire in accordance with the provisions of this chapter.
  - (2) A vehicle for hire operated under said business license is used in an illegal business or in violation of any ordinance of the City or state or federal law.
- B. No business license shall be revoked unless or until notice and opportunity to be heard has been given to the licensee and until a hearing is duly held and the licensee is given an opportunity to appear and be heard in his or her own defense. The City Commission may designate a hearing officer to hear the evidence submitted and to make a report of findings and recommendation thereon to the commission. The licensee may, at his or her expense, employ a reporter to transcribe the testimony given at the hearing. Following the hearing, the City Commission shall submit to the licensee a written statement of its findings and determination.
- C. When a business license has been suspended or revoked, the licensee shall surrender such license, together with all vehicle licenses and license tags issued to him or her under this chapter, to the City Clerk, and the

§ 37-20  
operation of any vehicle for hire covered by such license shall cease.

§ 37-29

§ 37-21. (Reserved)

§ 37-22. (Reserved)

§ 37-23. (Reserved)

§ 37-24. (Reserved)

§ 37-25. (Reserved)

§ 37-26. (Reserved)

§ 37-27. (Reserved)

§ 37-28. (Reserved)

§ 37-29. (Reserved)



ARTICLE III  
**Vehicle Licensing and Operation**

DIVISION 1

Generally

**§ 37-30. City vehicle license.**

When a business license has been issued or renewed and the prescribed fee paid therefor, the vehicle for hire owner shall forthwith obtain from the City Clerk a vehicle license for each vehicle for hire, other than taxicabs, which is to be operated under said business license. The vehicle license shall be furnished by the City, upon compliance with the requirements of this chapter, for use during the period for which the business license has been issued or renewed. Any vehicle license issued under this section shall at all times be maintained in the vehicle for hire for which it was issued and shall be presented to any officer of the Department of Public Safety upon request. The City Clerk, prior to issuing a vehicle license under this section, shall obtain from the owner the make, model, year, and color of the vehicle for which the vehicle license is sought, its state motor vehicle license number and its vehicle identification number.

**§ 37-31. Insurance.**

- A. The owner of every vehicle for hire shall, before operating the same on the public streets of the City, take out a liability insurance policy in some responsible insurance company authorized to transact business in the state, insuring such owner against liability for personal injury to a passenger in such vehicle for hire, or to a member of the general public, resulting from an accident in which such vehicle for hire may become involved, through the recklessness or negligence of its owner or operator, as well as against damage to property resulting from such accident. Such policy shall contain a provision that the same may not be canceled by the company issuing it, without first giving the City Clerk 10 days' written notice of such intended cancellation. Such policy, or a certificate thereof, shall be filed with the City Clerk.
- B. The minimum insurance required to be taken out for each vehicle for hire shall be in such types and amounts as may be set from time to time by resolution of the City Commission.

**§ 37-32. Required construction and equipment. [Amended 9-30-1996 by Ord. No. 1623]**

- A. It shall be unlawful for any vehicle for hire owner to cause or allow a vehicle for hire to be operated if it is not in full compliance with the requirements of Chapter 36 of this code and the provisions of the State Motor Vehicle Code. In addition, each vehicle for hire shall conform to the following:
- (1) All vehicles for hire shall have at least four doors, all of which shall be lockable from the inside; both the passenger compartment and the driver compartment of said vehicle must be accessible from the outside by at least two of the four doors.
  - (2) Every vehicle for hire shall be equipped with a working heater.
  - (3) Every vehicle for hire shall be equipped with a speedometer properly installed, maintained in good working order and exposed to view. No vehicle for hire shall be operated, by an owner or his or her agent, while such speedometer is out of repair or disconnected, absent the permission of the Chief of Public Safety.
  - (4) Every vehicle for hire shall be provided with snow tires for use on the two rear wheels or all-weather radial tires when pavement conditions are such as to require their use for the safety of the driver, passengers and the general public.

**§ 37-33. Inspection by the Department of Public Safety of applicant's vehicle. [Amended 8-12-1985 by Ord.**

§ 37-33  
No. 1354; 9-30-1996 by Ord. No. 1623; 7-16-2004 by Ord. No. 1775]

§ 37-47

Prior to the issuance of a license for a vehicle for hire, that vehicle must have been thoroughly inspected within the past 15 days by an automobile mechanic licensed by the State of Michigan. The applicant must present to the City a certificate from the mechanic who performed the inspection certifying that the vehicle is in full compliance with all relevant requirements of the Michigan Vehicle Code. The certificate may be on a form approved by the City. It shall be unlawful for an applicant to submit a fraudulent documentation certifying compliance with the Michigan Vehicle Code, and it shall be unlawful for any person to knowingly make a false statement, written or otherwise, concerning such compliance.

**§ 37-34. Owner's records and reports generally. [Amended 9-30-1996 by Ord. No. 1623]**

Every vehicle for hire owner shall keep accurate records of receipts from operations and operating and other expenses, capital expenditures, and such other operating information as may be required by this chapter. Such records shall be readily accessible for examination and provided to a designated officer of the Department of Public Safety or the City Manager upon request.

**§ 37-35. Inspections by owners; maintenance requirements. [Amended 9-30-1996 by Ord. No. 1623]**

Every vehicle for hire owner shall regularly inspect and maintain each said vehicle to ensure that each said vehicle is in a safe, clean and sanitary condition.

**§ 37-36. Operation on fixed routes prohibited.**

No owner or driver of a vehicle for hire shall cause or permit such vehicle for hire to be operated along routes in a manner similar to that of mass transportation vehicles operating along definite routes or between specific termini.

**§ 37-37. First passenger's right to exclusive use. [Amended 9-30-1996 by Ord. No. 1623]**

Any person hiring a vehicle for hire may have the sole use of such vehicle for hire, and no other person shall be admitted, unless the permission of the first person hiring the vehicle for hire is obtained.

**§ 37-38. Report of articles left by passengers.**

When a vehicle for hire driver finds any article left by a passenger and deposits it with the owner, as required by § 37-101, the owner shall report the finding and deposit of said article to Public Safety Department personnel in the information center of the Department of Public Safety within 24 hours.

**§ 37-39. (Reserved)**

**§ 37-40. (Reserved)**

**§ 37-41. (Reserved)**

**§ 37-42. (Reserved)**

**§ 37-43. (Reserved)**

**§ 37-44. (Reserved)**

**§ 37-45. (Reserved)**

**§ 37-46. (Reserved)**



§ 37-47  
§ 37-47. (Reserved)

§ 37-55

§ 37-48. (Reserved)

§ 37-49. (Reserved)

## DIVISION 2

### Taxicab Licensing and Operating Requirements

#### § 37-50. City license tag.

- A. When a business license has been issued or renewed and the prescribed fee paid, the vehicle for hire owner shall forthwith obtain from the City Clerk a license tag for each taxicab operated under said business license. The license tag shall be furnished by the City, upon compliance with the requirements of this chapter, for use during the period for which the business license has been issued or renewed. The license tag shall at all times be affixed to the lower left corner of the rear window of the taxicab for which it is issued.
- B. The license tag shall be so attached as to be plainly visible at all times. The City Clerk, prior to issuing a license tag under this section, shall obtain from the owner the make, model, year and color of the vehicle for which the license tag is sought, its state motor vehicle license number and its vehicle identification number.

#### § 37-51. Taxicab construction; equipment.

- A. Every taxicab operated in the City shall be constructed as required by § 37-32 and in addition shall conform to the following:
  - (1) Every taxicab shall be equipped with a taximeter properly installed, maintained in good working order and exposed to view. No taxicab shall be operated by an owner or driver while such taximeter is out of repair or disconnected, absent the permission of the Chief of Public Safety.
  - (2) Every taxicab shall be equipped with a card frame, furnished by the owner, for the proper display of the driver's identification card. The card frame shall be placed in the front of the taxicab and shall face the passenger and be so located as to be, at all times, in plain view of such passenger.

#### § 37-52. Identification. [Amended 9-30-1996 by Ord. No. 1623]

Each taxicab shall bear on the outside of each rear door, in letters not less than two inches nor more than six inches in height, the name of the licensee; in addition each taxicab shall bear in two separate places its own identifying numbers (which shall be not less than two inches nor more than six inches in height).

#### § 37-53. Rate of fare generally.

No holder of a business license for the operation of a taxicab shall charge any rate of fare greater than any maximum metered rate of fare that the City Commission may from time-to-time establish by resolution or motion.

#### § 37-54. Waiting times; stops en route; not to be operated on hourly rate.

Any passenger or party of passengers shall be entitled to a waiting period without charge not exceeding three minutes from the time the taxicab arrives at the point of origin until the passenger or party of passengers enters the taxicab. Each passenger or party of passengers may be charged such amount for additional waiting time or stops en route as the City Commission from time-to-time may establish by resolution or motion. No taxicab shall be operated on any hourly rental or rate basis except as permitted by use of the waiting time procedures herein established.

§ 37-55

§ 37-69

**§ 37-55. Rate cards.**

Owners of taxicabs shall furnish an appropriate rate card for each taxicab. Such rate card shall be affixed to each taxicab in such a manner as to be visible from the passenger compartment. No person shall alter, deface or remove such rate card.

**§ 37-56. Color and insignia notification. [Added 8-5-1991 by Ord. No. 1516; amended 5-18-1998 by Ord. No. 1654]**

To enable the public to identify a licensee's taxicabs and to readily distinguish them from the taxicabs of other licensees, the color scheme and insignia or trademarks of all taxicabs of each licensee shall be uniform and distinct. Each color scheme and insignia or trademark shall be registered with the City Clerk prior to use. Taxicabs shall be marked only with name and color scheme as designated on the trademark.

**§ 37-57. Regulations apply to all owners. [Added 9-30-1996 by Ord. No. 1623]**

When the owner of a vehicle for hire is something other than a natural person, the duties and prohibitions imposed in this chapter upon an owner shall also be imposed upon those persons involved, in a decision-making capacity, in the day-to-day management of a vehicle for hire business.

**§ 37-58. (Reserved)**

**§ 37-59. (Reserved)**

**§ 37-60. (Reserved)**

**§ 37-61. (Reserved)**

**§ 37-62. (Reserved)**

**§ 37-63. (Reserved)**

**§ 37-64. (Reserved)**

**§ 37-65. (Reserved)**

**§ 37-66. (Reserved)**

**§ 37-67. (Reserved)**

**§ 37-68. (Reserved)**

**§ 37-69. (Reserved)**

ARTICLE IV  
**Vehicle for Hire Driver's License**

**§ 37-70. Required. [Amended 9-30-1996 by Ord. No. 1623]**

No person shall drive a vehicle for hire within the City, without first having obtained a vehicle for hire driver's license issued in accord with this chapter, nor shall any owner permit a vehicle for hire to be operated by anyone other than a licensed vehicle for hire driver.

**§ 37-71. Application; applicant's photograph and fingerprints. [Amended 9-30-1996 by Ord. No. 1623; 7-16-2004 by Ord. No. 1775]**

- A. Each applicant for a vehicle for hire driver's license shall make application on forms to be provided by the Department of Public Safety, showing the following information: places of residence for five years prior to the date of the application, age, height, color of eyes, color of hair, place of birth, length of time the applicant has resided in City, whether the applicant is a citizen of the United States, places of previous employment for five years prior to the date of the application, whether applicant has ever been convicted of a felony or misdemeanor, whether applicant has previously been licensed as a vehicle for hire or taxicab driver, and if so, whether applicant's vehicle for hire or taxicab driver's license has ever been suspended or revoked and for what cause, and whether any state motor vehicle operator's permit or license issued to applicant has ever been suspended or revoked, and for what cause. Such application and statement shall be signed and sworn to by the applicant, and any false statement made by the applicant in applying for the license shall invalidate any vehicle for hire driver's license issued to him or her.
- B. Each application filed under this section shall have attached thereto two recent photographs of the applicant, of such size as may from time to time be designated by the Chief of Public Safety.

**§ 37-72. General qualifications of applicant. [Amended 9-30-1996 by Ord. No. 1623]**

- A. Each applicant for a vehicle for hire driver's license must meet the following requirements:
- (1) Be at least 18 years of age, with good eyesight and not subject to any infirmity of body which might render him or her unfit for the safe operation of a vehicle for hire.
  - (2) Possess a valid nonprobationary Michigan chauffeur's license (unless said probationary status is only the result of a recent change of residence to the State of Michigan).
  - (3) Be able to read, write and speak the English language.
  - (4) Be clean in appearance and person.
  - (5) Not be addicted to the use of drugs or intoxicating liquors.

**§ 37-73. (Reserved)<sup>156</sup>**

**§ 37-74. Driver's license fee.**

The City Commission may establish, by resolution or motion, license fees for vehicle for hire driver's licenses in such amounts as they shall deem appropriate from time-to-time to defray the costs of investigation and issuance of these licenses. No such license shall be issued unless and until the prescribed fee therefor has been paid.

**§ 37-75. Refusal. [Amended 9-30-1996 by Ord. No. 1623]**

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<sup>156</sup>Editor's Note: Former § 37-73, which pertained to examination of applicant; as amended, was repealed 7-16-2004 by Ord. No. 1775.

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§ 37-80

- A. The Chief of Public Safety may refuse to authorize the issuance or renewal of a vehicle for hire driver's license in the case of an application from any person:
- (1) Whose state automobile operator's or chauffeur's license or vehicle for hire driver's license has been revoked or suspended within two years prior to the date of application.
  - (2) Who has been convicted of a felony or any misdemeanor relevant to one's fitness to operate a vehicle for hire.
  - (3) Who has been convicted of driving an automobile resulting in death to any person.
  - (4) Who has been convicted of a drinking/driving offense.
  - (5) Who has failed to comply with the requirements of this chapter.
  - (6) Who, for any other reason is unfit to drive a vehicle for hire.
- B. Any applicant to whom the Chief of Public Safety has refused to authorize the issuance or renewal of a vehicle for hire driver's license shall be advised in writing of the reason or reasons for such refusal.
- C. An applicant refused under this section may appeal within 10 days to the City Commission. In case of such appeal, the Commission may designate a hearing officer to hold a hearing in connection with such refusal, and upon submission of a written report and recommendation from the hearing officer, setting forth the substance of the testimony produced, which shall be taken under oath administered by the hearing officer, shall decide whether or not the action of the Chief of Public Safety shall be affirmed or reversed.

**§ 37-76. Issuance. [Amended 9-30-1996 by Ord. No. 1623]**

Should the Chief of Public Safety find that the applicant has satisfactorily complied with all of the conditions of this chapter, he or she shall authorize the City Clerk to issue a vehicle for hire driver's license to the applicant.

**§ 37-77. Expiration and renewal. [Amended 9-30-1996 by Ord. No. 1623]**

Each vehicle for hire driver's license shall expire on the 30th day of April following the issuance thereof. All applications for license renewal shall be made as provided in § 37-71 and the provisions of this chapter shall be applicable thereto.

**§ 37-78. Suspension or revocation. [Amended 9-30-1996 by Ord. No. 1623]**

A vehicle for hire driver's license may be suspended or revoked by the Chief of Public Safety if such driver shall use a vehicle for hire for an illegal purpose, or if such driver is guilty of violating the provisions of this chapter or any other ordinance of the City or state or federal law or if such vehicle for hire driver's Michigan chauffeur's license is suspended or revoked. If such violations or illegal purpose are the subject of statutory or common law criminal proceedings, such license shall not be revoked until there has been a conviction of the driver in the appropriate court. In the event that illegal use of the vehicle for hire is resorted to, such suspension or revocation of a vehicle for hire driver's license may not be ordered until after a hearing is held and such driver is given an opportunity to appear and be heard in his or her defense. Any suspension by the Chief of Public Safety may be appealed within 10 days to the City Commission.

**§ 37-79. Temporary license.**

In the discretion of the Chief of Public Safety, he or she may, upon the filing of the proper application as provided for in § 37-71, issue a temporary vehicle for hire driver's license to the applicant, pending the return from state and/or federal authorities the records of the fingerprints of such applicant. In the event that the Chief of the Department of Public Safety decides that, in the public interest, such temporary vehicle for hire driver's license should be revoked, he or she may do so in his or her discretion.

§ 37-80

**§ 37-80. Probation. [Added 8-12-1985 by Ord. No. 1354; amended 9-30-1996 by Ord. No. 1623]**

§ 37-89

- A. The Chief of Public Safety may issue a probationary license to a person who has applied for a vehicle for hire driver's license (or convert a vehicle for hire driver's license to a probationary license) when the Chief has reasonable cause for concern regarding the applicant's fitness to drive a vehicle for hire or when the applicant has:
- (1) Eight or more points on his or her driving record;
  - (2) Been placed on probation by the Michigan Secretary of State;
  - (3) Within the preceding two years, had an accident while driving a vehicle for hire for which said driver has been convicted of a traffic offense or found responsible of a civil infraction in the appropriate court; and
  - (4) Been denied a license within the preceding three years pursuant to § 37-75.
- B. If the Chief of Public Safety issues such a probationary license, the Chief of Public Safety may:
- (1) Establish reasonable terms and conditions of said probation related to the operation of a vehicle for hire; and
  - (2) Revoke said license in the event said driver violates any of said terms or conditions or violates any provisions of this chapter.

**§ 37-81. (Reserved)**

**§ 37-82. (Reserved)**

**§ 37-83. (Reserved)**

**§ 37-84. (Reserved)**

**§ 37-85. (Reserved)**

**§ 37-86. (Reserved)**

**§ 37-87. (Reserved)**

**§ 37-88. (Reserved)**

**§ 37-89. (Reserved)**



ARTICLE V  
Vehicle for Hire Drivers

DIVISION 1  
Generally

**§ 37-90. Record of duty hours.**

All holders of business licenses shall keep daily records of drivers who are on duty, and such records shall show their hours of duty and shall be made available to any officer of the Department of Public Safety upon request.

**§ 37-91. Current address to be filed with Public Safety Department.**

All holders of driver's licenses shall keep on file with the Department of Public Safety their address, and shall, within three days after changing residences, register such change of address with the Department of Public Safety.

**§ 37-92. Cleanliness. [Amended 9-30-1996 by Ord. No. 1623]**

Drivers shall be clean in appearance while engaged in transporting a passenger.

**§ 37-93. Smoking prohibited. [Amended 9-30-1996 by Ord. No. 1623]**

No driver shall have in his or her possession a lighted cigarette, cigar or pipe while any passenger is within that driver's vehicle for hire.

**§ 37-94. Use of alcoholic beverages or drugs.**

No driver shall use any intoxicating liquor, drug or beer or any other malt drink while on duty.

**§ 37-95. Receipt and discharge of passengers generally.**

Drivers shall not receive or discharge passengers in the roadway, but shall pull up to the right-hand sidewalk as nearly as possible, or in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers, except on one-way streets where passengers may be discharged at either the right-or left-hand sidewalk or side of the roadway, in absence of a sidewalk.

**§ 37-96. Not to permit unauthorized occupancy of vehicle for hire. [Amended 9-30-1996 by Ord. No. 1623]**

No driver shall permit any person to sit or ride in his or her vehicle for hire while there is a passenger in said vehicle for hire unless said person is an employee of the person or entity holding the business license under which the vehicle for hire is operated.

**§ 37-97. Taking on excess passengers; permitting passenger to occupy front seat.**

No driver shall permit more persons to be carried in a vehicle for hire than the seating capacity of the passenger compartment, plus two passengers in the front seat, plus the driver. The front seat may only be occupied by a passenger if the passenger compartment is filled to capacity.

**§ 37-98. Refusal of passengers. [Amended 9-30-1996 by Ord. No. 1623]**

No driver shall refuse to convey any orderly person, upon request, unless previously engaged or unable or forbidden to do so by the provisions of this chapter.

§ 37-99

§ 37-106

**§ 37-99. Deception of passengers; to take passenger only to directed destination.**

No driver shall deceive or attempt to deceive any passenger who may ride in his or her vehicle for hire or who may desire to ride in such vehicle for hire, as to his or her destination or the rate of fare to be charged, or convey any passenger, to a place other than directed by such passenger.

**§ 37-100. Soliciting passengers; leaving vehicle while on street; cruising. [Amended 8-5-1991 by Ord. No. 1516]**

- A. No driver shall solicit passengers for a vehicle for hire except when sitting in the driver's compartment of such vehicle for hire or while standing immediately adjacent to the curb side thereof. The driver of any vehicle for hire shall remain in the driver's compartment or immediately adjacent to his or her vehicle at all times when such vehicle is on a public street, except that, when necessary, a vehicle for hire driver may be absent from his or her vehicle for not more than 30 consecutive minutes, and provided further, that nothing herein shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle.
- B. No driver shall solicit patronage in a loud or annoying tone of voice or by sign or in any manner annoy any person or obstruct movement of any person, or follow any person for the purpose of soliciting patronage.
- C. No driver shall seek employment by repeatedly and persistently driving his or her vehicle for hire to and fro in a short space before or by otherwise interfering with the proper and orderly access to or egress from any theater, hall, hotel, public resort, railway station or other place of public gathering, or in any other manner obstructing or impeding traffic. Any driver may, however, solicit employment by driving through any public street or place, without stops other than those due to obstruction of traffic, and at such speed as not to interfere or impede traffic, and may pass or repass before any theater, hall, hotel, public resort, railway station or other place of public gathering.
- D. No driver shall solicit patronage of persons assembled at the termini of any common carrier, nor at any intermediate points along any established route of such carrier, when such persons have assembled for the purpose of using the service of such common carrier. Nothing herein shall be construed to prohibit or interfere with response to any call for a vehicle for hire made by a signal from a pedestrian.
- E. Soliciting will not be permitted at any time on airport property. At no time shall any driver participate in any activity or conduct on the airport premises which would be detrimental to the health, safety, and welfare of the general public.
- F. All taxicabs operating from the airport shall be parked only in places where the parking of taxicabs is designated by signs except when actually loading or unloading passengers or baggage.

**§ 37-101. Disposition of articles left by passengers.**

Any article of value which has been left in a vehicle for hire by a passenger shall be returned to the passenger, if known, otherwise it shall be deposited with the owner of the vehicle for hire at the conclusion of the driver's tour of duty.

**§ 37-102. (Reserved)**

**§ 37-103. (Reserved)**

**§ 37-104. (Reserved)**

**§ 37-105. (Reserved)**



§ 37-106  
§ 37-106. (Reserved)

§ 37-115

§ 37-107. (Reserved)

§ 37-108. (Reserved)

§ 37-109. (Reserved)

DIVISION 2  
Taxicab Drivers

**§ 37-110. Identification card. [Amended 9-30-1996 by Ord. No. 1623]**

- A. When driver's license is issued to a taxicab driver under Article IV of this chapter, there shall, at the same time, be furnished the driver an identification card on which shall appear the driver's name and a photograph of the driver, which shall be attached to the identification card so that the photograph cannot be removed and another photograph substituted, without detection. Such identification card must, at all times, be displayed in the card frame of the taxicab which is being driven. When the driver is off duty, he shall remove the identification card from the taxicab.
- B. Except as provided above, it shall be unlawful for any person to remove, alter or deface an identification card issued under this section.

**§ 37-111. (Reserved)**<sup>157</sup>

**§ 37-112. Manifest. [Amended 9-30-1996 by Ord. No. 1623]**

- A. Every taxicab driver shall maintain a daily manifest upon which is recorded all trips made each day, showing the time and place of origin and destination of each trip and the amount of fare charged for each trip. Such manifest shall also show the date thereof, the time that the driver begins work and the time that the driver leaves duty, and shall be signed by such driver and returned to the owner by such driver at the conclusion of his tour of duty. Such manifest shall be shown by the driver or the owner to any officer of the Department of Public Safety upon request. The forms for such manifest shall be furnished to the driver by the owner and shall be of a type approved by the Chief of Public Safety.
- B. Every owner shall retain and preserve all taxicab drivers' manifests in a safe place for at least the calendar year next preceding the current calendar year, and such manifests shall be available to the City Manager or Chief of Public Safety upon request.

**§ 37-113. Use of shortest route.**

A taxicab driver shall transport passengers by the shortest route between the point or points of origin and destination, unless otherwise directed by the passenger.

**§ 37-114. Standing vehicle on street.**

No taxicab driver, while awaiting employment by passengers, shall stand his or her taxicab on any public street or place other than in a taxicab stand designated or established in accordance with § 36-180 of this code.

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<sup>157</sup> Editor's Note: Former § 37-111, which pertained to a requirement that taxicab drivers wear a metal badge, was repealed 9-30-1996 by Ord. No. 1623.

§ 37-115

§ 37-115

**§ 37-115. Penalty for violation. [Added 9-30-1996 by Ord. No. 1623]**

Any violation of any provision of this chapter shall be a misdemeanor, punishable by not more than 90 days in jail and/or a \$500 fine.

ARTICLE VI  
**Commercial Quadricycles**  
**[Added 12-7-2015 by Ord. No. 1936]**

**§ 37-116. Purpose.**

The transportation of persons by means of quadricycles is a matter affecting the public interest. The public interest requires that quadricycle drivers be properly qualified, that quadricycles be fit for their intended purpose, and that the safety and welfare of both quadricycle passengers and other persons and vehicles using public streets be protected.

**§ 37-117. Operating permit required; compliance.**

No person who owns or controls a quadricycle shall permit it to be driven or otherwise operated upon the streets and highways of the City without securing from the City Clerk an operating permit and City-issued decal for each quadricycle. Quadricycles shall be driven and operated in compliance with all of the requirements of this article.

**§ 37-118. Operating permit application.**

- A. The City Clerk is responsible for issuing operating permits and decals for quadricycles. Every owner of a quadricycle desiring to obtain an operating permit is required to make written application to the City Clerk, which shall be accompanied by the fee established by resolution of the City Commission. An applicant shall truthfully and fully provide the following information requested on the application:
- (1) The applicant's full name, business address, e-mail address and phone number;
  - (2) The name of the business entity under which the applicant will be operating;
  - (3) The names and residence addresses of all shareholders, members, or partners of the entity applying for an operating permit;
  - (4) A copy of the applicant's Michigan driver's license and number;
  - (5) A certificate of insurance satisfying the requirements of MCLA § 257.518a, which shall name the City of Kalamazoo and its officers and officials as additional insureds;
  - (6) A map of the City showing proposed routes, stands and pickup points;
  - (7) A list of the applicant's authorized quadricycle drivers, including name, address, date of birth, driver's license number, and documentation that the driver has completed the required quadricycle drivers' training program established by this article and otherwise meets the requirements of this article;
  - (8) A description of each quadricycle intended to be used by the applicant, including trade name, number of seats, serial number, if any, and body style; and
  - (9) Such other information as the City Clerk may require.
- B. If the applicant is a corporation, limited liability company, partnership, or other such business entity, the person who will be acting as principal in charge of the business to be licensed shall sign the application, and all owners of the business entity shall meet all the requirements for individual applicants.
- C. If, after the issuance of an operating permit, a quadricycle owner desires that a person drive a quadricycle and such person was not listed in the application described above, the owner shall submit such required driver information to the City Clerk before such person is permitted to drive a quadricycle upon the streets and highways of the City.

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D. An owner shall not permit a driver to operate a quadricycle upon the streets and highways of the City who falls out of compliance with the requirements of this article.

§ 37-120

**§ 37-119. Review of application.**

- A. Upon filing of the application for an operating permit, the City Clerk shall review and evaluate the application. In determining whether an operating permit should be issued, the City Clerk shall evaluate whether the application is complete, and whether the applicant has violated two or more provisions of this article within the past year. Any driver with three or more points on his/her driving record or who is registered as a sex offender in this or another state shall be ineligible to operate a quadricycle. Any application that does not include all the information required by this article, is not supported by the materials required by this article, or if the application has two or more violations of this article in the past year, shall result in the denial of an operating permit.
- B. Before the issuance of an operating permit by the City Clerk, the Department of Public Safety shall inspect each quadricycle proposed to be used by the applicant and notify the City Clerk whether it satisfies the requirements of this article.
- C. If an operating permit is not approved, the applicant may file an appeal as provided in this article.
- D. The City Clerk shall approve, deny or approve with conditions an application which is complete for an operating permit within 42 days of its being filed.

**§ 37-120. Vehicle regulations.**

- A. Prior to its operation on a public street, each quadricycle shall be inspected by the Department of Public Safety. All quadricycles must be constructed for and have the structural integrity necessary to support their operation. Each quadricycle must be equipped with the following:
  - (1) Front and rear turn signals;
  - (2) A headlight capable of emitting a white light visible from a distance of at least 500 feet to the front;
  - (3) A red reflector on the rear that shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle which may be supplemented by a taillight capable of emitting a red light visible from a distance of 500 feet to the rear;
  - (4) Rearview mirror;
  - (5) A bell or horn;
  - (6) Seatbelts for passengers;
  - (7) Reflectors placed on each wheel and at each corner of the body of the quadricycle;
  - (8) A proper braking system that enables the driver to bring the quadricycle to a controlled stop; and
  - (9) Any other equipment required to comply with all applicable federal and state laws.
  - (10) A quadricycle must not have any cracks, broken or missing parts, or other visible damage. All wheels must be firmly attached to the hub of a vehicle and all springs, axles, and supporting structures of each quadricycle must be intact.
- B. Prior to the operation of any quadricycle and at the beginning of each shift or each day of operation, the driver shall thoroughly inspect the quadricycle for safe operating conditions, and shall maintain records of such inspection, which shall be provided to the City upon request. For any condition found, then or at any other time that will prevent the safe operation of the quadricycle, or noncompliance with this article, the driver shall

§ 37-120 immediately remove the quadricycle from service and correct the condition before the quadricycle is returned to operating service. § 37-124

- C. Each quadricycle owner shall prepare a training program for its drivers, which shall cover, at a minimum, safe operation of quadricycles, customer service policies and requirements of this article. The owner shall make the training program materials available to the City at its request.
- D. If a quadricycle is involved in an accident or collision, the driver shall immediately notify the quadricycle owner and the Department of Public Safety and remain at the scene until the police investigate the accident or collision.

**§ 37-121. Decal required.**

- A. Before allowing a quadricycle to be operated for hire, the owner shall obtain a City-issued decal. Upon issuance of an operating permit, the City Clerk shall issue a decal to be affixed upon each quadricycle intended to be operated in the City by the applicant. The decal form shall be prescribed by the City and contain a unique nontransferable quadricycle registration number.
- B. It is unlawful for any owner to lease, rent or allow a quadricycle to be operated for hire without first having obtained a decal issued by the City and affixing the decal to the quadricycle in a manner prescribed by the City.

**§ 37-122. Validity of operating permit.**

- A. Operating permits shall expire on January 31 of each year.
- B. The holder of an operating permit shall be entitled to renewal of the operating permit upon payment of the annual fee established by the City Commission and submission of any changes in information required under § 37-118 and if there has been not more than one violation of this article in the past year.
- C. Operating permits shall immediately become invalid if any of the information provided to obtain the permit is determined to be false when it was submitted, the City-issued decal is defaced, altered, forged or counterfeited, or the quadricycle does not comply with the regulations set forth at § 37-120.

**§ 37-123. Permit fee.**

The City Clerk shall charge a nonrefundable fee to applicants to recover the cost of activities associated with the administration, regulation, and issuance of decals and operating permits. The fee shall be determined from time to time by resolution of the City Commission.

**§ 37-124. Operating regulations.**

- A. No person under the age of 18 shall operate a quadricycle.
- B. No person shall drive a quadricycle unless the person has a currently valid driver's license and displays an identification badge provided by the owner. Each badge must contain the driver's name and a recent photograph of the driver.
- C. No person shall operate, or cause to be driven, a quadricycle in an unsafe condition.
- D. All quadricycle drivers are subject to and shall obey all applicable traffic safety laws, rules and regulations of the City of Kalamazoo and State of Michigan.
- E. A quadricycle should not be driven at a speed of more than 25 miles per hour and shall not be driven on a highway or street with a speed limit of more than 45 miles per hour except for the purpose of crossing that highway or street.

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- F. A quadricycle shall not be driven on any street or highway under the jurisdiction of the state transportation department if so prohibited.
- G. A quadricycle shall not be driven on sidewalks or on a trail intended for the use of pedestrians and nonmotorized vehicles.
- H. Quadricycles are not permitted to park on streets, highways or a thoroughfare, except as follows:
- (1) Any portion of a street so designated for the parking as a "quadricycle stand" by the Traffic Engineer.
  - (2) In a legal parking space, provided that the fee for occupying said space is paid, if applicable.
  - (3) A single quadricycle may park temporarily at the curb only as long as necessary for passengers to board and exit the vehicle.
  - (4) In all cases, quadricycles shall be parked in a location that does not impede other pedestrian or vehicular traffic.
- I. No person shall use or allow any quadricycle to be used for any illegal purpose. No person shall use or permit or allow any quadricycle to be used in, or to aid or abet, any unlawful act.
- J. No person shall operate or knowingly permit any other person to drive a quadricycle under the influence of intoxicating liquor or any controlled substance or intoxicating substance, or any combination of intoxicating liquor, controlled substance or intoxicating substance.
- K. No person shall drive a quadricycle when the number of passengers exceeds the number of available seats. No person shall operate a quadricycle unless all passengers are seated in a seat designated for that purpose and using the seat belt provided. Infant car seats are not be permitted to be used on a quadricycle.
- L. Each quadricycle owner shall adopt and operate a system for the collection, storage, and return of personal property left in a quadricycle.
- M. No person shall consume, or possess in a container which is open, uncapped or upon which the seal was broken, any alcoholic beverage within or on a quadricycle.
- N. All beverages consumed by quadricycle passengers shall be contained in metallic or plastic containers.
- O. A quadricycle driver shall at all times keep each quadricycle clean and free of refuse and in safe operating condition.

**§ 37-125. Preliminary breath test.**

A Public Safety Department officer who has reasonable cause to believe that a person is or was driving a quadricycle upon a public highway or other place open to the public or generally accessible to a quadricycle, including an area designated for the parking of vehicles, and that the person by the consumption of alcoholic liquor may have affected his or her ability to drive a quadricycle, he/she may require the person to submit to a preliminary chemical breath analysis. A quadricycle driver's refusal to take or failure to properly take a preliminary chemical breath analysis as required by this section is a violation of this article and may result in the revocation or suspension of the owner's operating permit.

**§ 37-126. Suspension or revocation of operating permit.**

An operating permit may be denied, suspended or revoked by the City Clerk based upon any of the following grounds:

- A. The owner or driver of a quadricycle fails or has failed to comply with any provision of this article.

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- B. The owner or driver of a quadricycle has been convicted of any felony involving force or violence; any reckless driving or driving under the influence offense; or any crime reasonably related to the qualifications, functions or duties of the past-due transport business or the ability of the quadricycle owner or driver to safely transport passengers, unless five years have elapsed from the successful completion of the sentence for any such conviction.
- C. A quadricycle driver has been convicted of a crime that requires registration under the Michigan Penal Code as a sex offender.
- D. A quadricycle driver or owner has knowingly made a false statement of material fact, or knowingly failed to state a material fact in the application process for the operating permit.
- E. A quadricycle driver's ability to drive lawfully in Michigan or any other state is currently expired, suspended or revoked.
- F. A quadricycle driver has engaged in activity that, in the judgment of the City Clerk, constitutes a serious threat to the public health, safety or welfare. Such threat may be indicated by but is not limited to:
  - (1) An arrest for driving under the influence of alcohol, a controlled substance or intoxicating substance while operating a quadricycle;
  - (2) An arrest for a crime that, if convicted, would require registration as a sex offender, and where a quadricycle was used in the planning of, perpetration of, or fleeing from the offense;
  - (3) A report from a law enforcement agency that a quadricycle driver was involved in an accident involving a quadricycle where the quadricycle passengers were injured.

**§ 37-127. Notification of denial, suspension or revocation; hearing.**

- A. An operating permit may be denied, suspended or revoked by the City Clerk for cause as defined by this article. Notice of the denial, suspension or revocation shall be served upon the operating permit holder by personal service or first-class prepaid mail. The holder of an operating permit or a person who has been denied an operating permit may request a hearing within 10 days after service of the denial, suspension or revocation. Any hearing shall be scheduled to be held by the City Manager or the City Manager's designee. Depending upon the necessity for prompt action, the hearing shall be held in accordance with one the following provisions:
  - (1) If there is no immediate threat to the public health, safety or welfare, the hearing shall be held to determine whether the operating permit should be denied, suspended or revoked. The holder or seeker of an operating permit shall be notified of the time, date and place of the hearing and shall be notified of the reason or reasons for the proposed denial, suspension or revocation. The operating permit holder or seeker of an operating permit shall be entitled to be represented by counsel, to submit evidence, to cross-examine witnesses and to make arguments concerning the factual and legal issues.
  - (2) If there is an immediate threat to the public health, safety or welfare, the operating permit may be suspended prior to the hearing. If an operating permit is suspended prior to the hearing, the hearing shall be commenced as soon as practical but in no case more than 10 days after the request for hearing. The hearing shall be held to determine whether to terminate or extend the suspension, or whether the suspension should be converted into a revocation of the operating permit. The holder of the operating permit shall be notified of the time, date and place for hearing and shall be notified of the reason or reasons for the already imposed suspension and for any contemplated future action. The operating permit holder shall be entitled to be represented by counsel, to submit evidence, to cross-examine witnesses and to make arguments on factual and legal issues.
- B. In any hearing held pursuant to the provisions of this article, the rules of evidence shall be followed as far as





**Chapter 38**

**WATER**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in section histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**County water supply ordinance adopted by City — See § 1-6B(9).**

**Buildings and building regulations — See Ch. 9.**

**Plumbing code — See § 9-78 et seq.**

**Electrical code — See § 9-98.**

**Housing code — See Ch. 17.**

**Covering or fencing of dry wells — See § 22-11.**

**Impersonating meter readers — See § 22-24.**

**Wastewater discharge regulations and enforcement procedures — See Ch. 28.**

**Sewer service charges — See § 28-73 et seq.**

**Special assessments for public improvements — See Ch. 32.**

**Permit for installation of water pipe lines in, over or on streets, alleys and other public places — See § 33-102 et seq.**

**Water supply for swimming pools — See § 34-8.**



ARTICLE I  
In General

**§ 38-1. Definitions. [Adm. Code § A210.1; P.S. Code §§ PS403.11, PS404.A1; amended 4-12-1982 by Ord. No. 1255; 9-7-1982 by Ord. No. 1268]**

For the purposes of this chapter, the following words and terms shall have the meanings ascribed to them in this section, unless clearly indicated to the contrary:

CONSUMER — The person owning the property in or on which water is consumed.

DIVISION or DIVISION OF WATER — The Department of Public Utilities.

METER — Any measuring device by which the quantity of water used by a consumer is measured.

SERVICE CONNECTION or SERVICE PIPE — That pipe which delivers water from the distribution main to the meter on the property being served and includes all piping and appurtenances up to the discharge side of the meter but not beyond that point.

**§ 38-2. (Reserved)<sup>158</sup>**

**§ 38-3. (Reserved)**

**§ 38-4. Right of entry to premises where water used. [P.S. Code § PS403.17]**

Employees of the City shall have the right to enter any premises in which or on which City water is used to inspect, adjust, repair or remove water meters or appurtenances in connection with water meters, at any and all reasonable times.

**§ 38-5. City does not guarantee continuous service; nonliability for damages. [P.S. Code § PS403.18]**

The City will endeavor to furnish continuous water service to the consumer, but does not guarantee uninterrupted service and will not be liable for any damage which the consumer may sustain by reason of the failure of the service, whether caused by accident, repairs or otherwise, nor will the City be liable for damages which the consumer may sustain by reason of failure of the water supply or for damages to persons or property arising, accruing or resulting from the supply of water or from any apparatus or appurtenance in connection therewith.

**§ 38-6. Charges for installation of distribution mains. [P.S. Code §§ PS404.1—PS404.5]**

- A. In all cases where the Department of Public Utilities is requested to lay distribution mains, in easements or public rights-of-way, for any district or development not presently served by City water, a charge shall be rendered for each linear foot of such distribution main necessary to provide acceptable service to such district or development, and shall be paid for by the party requesting same. The limits of service necessary for such district or development shall be prescribed by the Director of Utilities, based on sound engineering and operating practices, and the legal requirements of any other public agency.
- B. The Director of Utilities shall, each year, file with the City Clerk the unit charges for the various classes of such distribution construction for the coming calendar year. These average linear foot charges for distribution mains shall reflect the preceding year's cost experience for the various classes of construction, and the projected changes in costs of labor and materials, and shall be a weighted cost-average for all sizes of main up through 10 inches. Cost for various degrees of surface repairs shall be stated in addition. For mains larger than 10 inches, that portion of cost beyond 10 inches shall be deemed to be "transmission facilities," and shall be absorbed by the Department of Public Utilities.

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**158. Editor's Note: Former §§ 38-2 and 38-3, relative to the Division of Water, were repealed 9-7-1982 by Ord. No. 1268. Said sections formerly derived from Adm. Code, § A210.1 and P.S. Code, §§ PS403.11, PS403.12.**

- § 38-6 § 38-9
- C. Charges for the various distribution construction projects must be paid in full before any work can be authorized.
- D. In case the City commission shall determine, by resolution, that the expense for the distribution mains shall be paid for by special assessment, the normal assessment policies of the City, as prescribed in Chapter 32 of this Code, shall apply.
- E. In cases where arterial or distribution mains have been installed at the cost of the Public Utilities Department, charges for these distribution facilities shall be made when any abutting property is rendered service from the mains. These charges, for each foot of such connecting property, shall be based on 60% of the linear footage charge for distribution mains in effect at the time of such connection.

**§ 38-7. Installation and maintenance of service connections generally. [P.S. Code § PS404.A1]**

Water service connections shall be installed and maintained under the direction and control of the Director of Utilities, at the request of the owner of the property or his duly authorized representative. Any change to the site, subsequent to the installation of the connection, which may affect the operation and maintenance of the service shall relieve the City from all responsibility for maintenance and liability for any resultant damages.

**§ 38-8. Service connection charges. [P.S. Code § PS404.A3; amended 9-24-1984 by Ord. No. 1334; 5-31-1994 by Ord. No. 1577]**

- A. The City Manager is hereby authorized, with the consent of the City Commission, to determine and establish a schedule of construction charges for the various sizes and types of water service connections for each calendar year. Each schedule shall become effective when approved by motion duly adopted by the City Commission. Such schedule of charges shall be based on the following, as applicable:
- (1) Recovery of all costs normally incurred for this type of construction.
  - (2) The size and length of pipe to be used for standard size connections, up through 1 1/4 inch. When the main is in a public street, the length of pipe shall be computed from the center of the right-of-way.
  - (3) Extra costs of construction during winter months.
  - (4) Repair or replacement of pavement and sidewalk.
  - (5) Exceptional surface repairs, including landscaping.

For larger sized pipes and for all extensions or alterations to existing services, charges shall be based upon actual costs.

- B. The Director of the Department of Public Utilities may establish advance deposits for construction charges for water service connections for each calendar year.
- C. Advance deposits toward construction charges established under this section shall be made before construction. Any balance owed shall be due within 30 days after billing. Interest at the rate established by the City Commission for past due accounts shall be charged upon any delinquent unpaid balance. If such unpaid balance, with interest, is not paid within six months, the fact shall be reported to the City Commission for establishment of a lien against the real estate.

**§ 38-9. Cross connections. [P.S. Code § PS403.110]**

- A. No connection shall be installed which will connect the City water supply to any system of pipes or piping which may also be supplied from any other source. The use of check valves or valves of any kind to separate the City supply from any other supply will not be permitted. There must be an absolute physical separation of

§ 38-9  
the City water supply and any other supply.

§ 38-14

- B. Connections installed contrary to this section prior to the effective date of Ordinance No. 62, from which this section is derived, may continue until the health officer or the Director of Utilities orders such connection discontinued. Customers shall ordinarily be given five days in which to comply with such an order, but in cases of emergency, when it is deemed by the health officer that public health is being jeopardized by such a connection, customers shall be required to comply with the order immediately. If such a customer shall fail to comply with such an order within the time limits herein specified, such failure shall be considered as a violation of this section, and in addition thereto, the water shall be shut off from the premises and not turned on again until the order has been complied with.

**§ 38-10. Location and size of meters. [P.S. Code §§ PS403.112, PS404.A2; amended 12-29-1975 by Ord. No. 1075]**

- A. Meters shall be located in an accessible space provided by the property owner at the point where the service connection enters the structure and shall not be in a crawl space or a locked storage room. Where it is impractical to place the meter elsewhere, the owner shall provide a meter pit on private property adjacent to the public right-of-way.
- B. Meter sizes shall be prescribed by the Director of Utilities. Meter sizes shall be changed when it appears that a meter of the wrong size is in use, except that changes shall not be made for seasonal variations.

**§ 38-11. Service of more than one premises by same meter. [P.S. Code § PS403.14]**

Not more than one residence, factory or industrial institution shall be served by one meter, provided the regular water main is laid past any such premises or is easily accessible to such premises. When a main is installed on the street past any premises previously served by a meter also measuring water to another premises, the connection previously installed shall be removed and the premises connected to the main in the regular way.

**§ 38-12. Bypassing meter prohibited; exception. [P.S. Code §§ PS403.13, PS403.15]**

It shall be unlawful for any person to open any valve or make any connection which will make possible the use of water which has not passed through a meter properly installed and recorded on the books of the division, except that, in special cases where it is impractical to meter the water and where the amount used can be accurately estimated and where proper arrangements are made for the payment of water so used, the Director of Utilities may grant temporary permission in writing for such use of water without a meter.

**§ 38-13. Meters for water used during construction. [P.S. Code § PS403.15]**

In cases of ordinary building construction, a meter shall be set in a place approved by the division, at the expense of the customer, to measure the water used during construction. Water so used shall be charged for at the usual rates.

**§ 38-14. Tapping, removing and installing water mains, piping, meters, service connections, or other appurtenances. [P.S. Code § PS403.13; amended 10-19-2009 by Ord. No. 1859]**

- A. Only approved contractors or employees of the Public Services Department, Water Division, acting in their official capacities are permitted to tap, change, remove, disconnect, repair, install, break, or seal, turn on, or in any way perform work on any water mains, branch piping, service connections, meters, valves, fittings or other appurtenances of the water distribution system.
- B. An "approved contractor" must be a licensed plumber in good standing with the State of Michigan and be able to demonstrate to the Public Services Director or the Director's designee sufficient experience to perform work to the satisfaction of the Public Services Director, or the Director's designee. The Public Services Director, or the Director's designee, shall maintain a list of approved contractors who have met these

§ 38-14 requirements. An approved contractor shall obtain written permission from the Public Services Director, or the Director's designee, before performing any work. § 38-18

- C. Nothing in this section shall be deemed to obviate the necessity that an approved contractor or an employee of the Water Division secure all necessary permits before performing any work on the City's water distribution system, or to secure a final inspection and approval of any work described in this section.

**§ 38-15. Obstructing fire hydrants, curb boxes, street valves or meters. [P.S. Code § PS403.16]**

It shall be unlawful for any person to cover up or obstruct in any way free access to any fire hydrant, curb box, street valve or meter. In case of violation of this section, the cost of removing the obstruction, together with the cost of restoring the hydrant, curb box, street valve or meter to its proper accessible position, plus 25%, shall be charged to the person causing or allowing the obstruction to occur or under whose direction the obstruction occurred. This charge shall be subject to a 10% discount, if paid within 30 days of the date of the invoice. This charge shall be in addition to any penalties provided for the violation of this section.

**§ 38-16. Unlawful use of fire hydrants, curb cocks or valves; wrench or key for valves and hydrants. [P.S. Code § PS403.19]**

- A. It shall be unlawful for any person whether employed by the City or otherwise, to operate any fire hydrant, curb cock or valve which controls water which is not being metered, except as provided in Subsections B and C below.
- B. Customers may turn water on and off by the valve immediately ahead of the meter in the basement or meter pit in which the meter is located, at their pleasure.
- C. It shall be unlawful to operate any other valve or hydrant, except by a wrench or key which has been approved by the Division of Water and stamped with a distinctive, identifying marking and a serial number. Records shall be made by the serial number of the ownership of each and every key or wrench so approved. All hydrant wrenches used by the fire department shall be inspected, and if found in good condition, shall be so approved and recorded. The Director of Utilities may issue approved and recorded keys or wrenches to such other persons as he may deem proper, subject to the approval of the City Manager. Any key or wrench so issued shall be for the exclusive use of the person recorded with the issuance of the key or wrench. In case of violation of this section, any wrench or key so illegally used may be confiscated by any employee of the Division of Water, acting in his official capacity, or by any officer of the law.

**§ 38-17. Use of water pipes as electrical ground. [P.S. Code § PS403.111]**

- A. It shall be unlawful for any person to ground or electrically connect any radio, telephone or other electrical system to any pipes or appurtenances connected to the discharge side of any water meter, unless:
  - (1) A shunt is placed around the water meter so as to shunt or bypass any electric current that might otherwise flow through the water meter.
  - (2) Ten feet or more of water pipe connected to the discharge side of water meter is buried in moist earth.
- B. Any shunt placed around a water meter shall be so placed that the meter may be removed without disturbing same, and no electrical connection whatever shall be made to the meter itself or to the meter union or meter "tail piece." The "tail piece" shall be construed as the short piece of special pipe (usually of brass) which is immediately adjacent to the meter and connected thereto by the meter union.

**§ 38-18. Unlawful use of water supplied for fire sprinklers; maintenance and testing of sprinkler systems. [P.S. Code § PS403.112; amended 12-29-1975 by Ord. No. 1075]**

When meters are installed to measure water to fire protection sprinkler systems under Schedule C of § 38-32, it



§ 38-18 shall be unlawful to use water through such meters for any purpose other than extinguishing fires or testing or § 38-20 filling the sprinkler system or its appurtenances. Customers using water under said Schedule C shall maintain their sprinkler systems in a tight condition, free from drips, leaks and unlawful uses of water at all times. Tests of sprinkler systems shall be made at such times as authorized by the Director of Utilities to best protect the City water system.

**§ 38-19. Establishment and protection of water resource and land preserve. [P.S. Code §§ PS407.1, PS407.2]**

- A. All that portion of the City-owned land in Sections 1, 2, 11 and 12, T 3S, R 12W, which is south and westerly of a one-hundred-thirty-two-foot electric transmission right-of-way, and which is more than 821.90 feet north of the south line of Section 11, and which is more than 1,000.00 feet northwesterly from Texas Drive, as shown on Exhibit "A" attached to Ordinance No. 957 and on file in the City Clerk's office, shall be established as a water resource and land preserve.
- B. It is the intention of the City to maintain ownership and control of the land referred to above, so as to protect the water supply environment to the greatest degree possible, and to preserve the character of the land in as natural a state as possible, while providing for water supply development needs. Therefore, the land uses permitted in this area shall be limited to those activities necessary for water supply purposes and for passive recreational uses, such as nature study, wildlife observation, hiking and minimal forest management.
- C. All unauthorized motorized vehicles and equipment; hunting, trapping, and the carrying of firearms of any type; and sewers, garbage dumps and other possible sources of contamination shall be prohibited in the area described in Subsection A above. All activities that could affect the land or water environment, which are not specifically approved or prohibited in this section, must receive prior approval from the Director of Utilities.
- D. Land areas owned by the City and contiguous to the land described in Subsection A above may be used for more active recreational uses that are compatible with the intent of this section.

**§ 38-20. Protection of Central Water Well Field Sanitary Isolation Area. [P.S. Code §§ PS901, PS902]**

- A. It is the intention of the City to protect and maintain the sanitary isolation of the environment of the Central Water Well Field free from all sources of contamination which might result in harm to the municipal wells located within this field, and which could adversely affect the physical isolation of the wells, as required by the State Health Department. The boundaries of the Central Water Well Field Sanitary Isolation Area, which is located entirely within the City, are described as follows:

§ 38-20

§ 38-21

Commencing at a point at the intersection of the center lines of South Burdick Street and Balch Street in the City, thence northerly on the center line of South Burdick Street 384.5 feet; thence westerly parallel to the center line of Balch Street 165 feet to a point of beginning; thence northerly approximately 851 feet parallel to the center line of South Burdick Street to a point which is 176 feet south of the south line of Vander Salm Court; thence westerly parallel to the center line of Balch Street approximately 500 feet to the west line of South Rose Street; thence northerly along said west line of South Rose Street approximately 275.5 feet to a point which is 255.75 feet south of the south line of Wall Street; thence westerly parallel to the center line of Forest Street approximately 344.5 feet to a point 148.5 feet east of the center line of South Park Street; thence southerly parallel to said center line of South Park Street approximately 559.75 feet to the south line of Forest Street; thence westerly along said south line of Forest Street approximately 90.5 feet to a point 58 feet east of the center line of South Park Street; thence southerly parallel to said center line of South Park Street approximately 780 feet to a point 165 feet north of center line of Balch Street, thence easterly approximately 173.45 feet parallel to the center line of Balch Street to a point which has a perpendicular distance from the center line of Crosstown Parkway of 150 feet and a perpendicular distance to the center line of Balch Street of 165 feet; thence northeast parallel to the center line of Crosstown Parkway approximately 240 feet to a point which has a perpendicular distance from the center line of Crosstown Parkway of 150 feet and a perpendicular distance of 346.5 feet from the center line of Balch Street; thence easterly parallel to the center line of Balch Street approximately 585 feet to a point 183 feet west of the center line of South Burdick Street; thence northerly 38 feet to a point which is also 183 feet west of the center line of South Burdick Street; thence easterly 18 feet parallel to the center line of Balch Street to the point of beginning.

- B. No construction or other activity which could adversely affect the well isolation, will be permitted on or below the surface of the ground within the confines of the Sanitary Isolation Area enclosing the Central Water Well Field, without prior approval of the Director of Utilities for the City and the Director of the State Health Department.

**§ 38-21. Protection of Kendall Water Well Field Sanitary Isolation Area. [Added 5-29-1979 by Ord. No. 1159]**

§ 38-21

§ 38-23

- A. It is the intention of the City to protect and maintain the sanitary isolation of the environment of the Kendall Water Well Field free from all sources of contamination which might result in harm to the municipal wells located within this field, and which could adversely affect the physical isolation of the wells, as required by the Michigan State Health Department. The boundaries of the Kendall Water Well Field Sanitary Isolation Area, which is located entirely within the City of Kalamazoo, State of Michigan, are described as follows:

Commencing at the northwest corner of Section 20, Township 2 South, Range 11 West, thence south along the west line of said section, 100.0 feet for the place of beginning of the land hereinafter described; thence south 89 degrees, 45 minutes, 40 seconds east parallel to the north line of said section, 637.54 feet to the center line of Kendall Avenue; thence south 01 degrees, 00 minutes east thereon, 100.02 feet; thence south 89 degrees, 45 minutes, 40 seconds east parallel to north line of said section, 695.44 feet to the east line of the west 1/2 of the northwest 1/4 of said section; thence south 00 degrees, 04 minutes, 09 seconds west along said east line, 570.16 feet to the north line of the recorded plat of Westmoreland Park Number 2; thence north 89 degrees, 44 minutes, 01 seconds west along said north line, 519.64 feet to the east line of the recorded plat of Westmoreland Park Number 1; thence north 01 degrees, 05 minutes, 12 seconds west along said east line, 164.40 feet to the northeast corner of said plat; thence north 89 degrees, 41 minutes, 09 seconds west along the northline of said plat, 164.92 feet to the center line of Kendall Avenue; thence south 01 degrees, 00 minutes east thereon, 0.17 feet to the northeast corner of the recorded plat of Briarwood; thence north 89 degrees, 41 minutes, 10 seconds west along the north line of said plat and its extension westerly, 646.37 feet to the west line of said section; thence north thereon, 604.67 feet to the place of beginning. Reserving a right-of-way 66 feet wide, lying 33 feet east and west of center line of Kendall Avenue for highway purposes.

- B. No construction or other activity which could adversely affect the well isolation will be permitted on or below the surface of the ground within the confines of the sanitary isolation area enclosing the Kendall Water Well Field, without prior approval of the Director of Utilities for the City of Kalamazoo and the Director of the State Health Department.

**§ 38-22. Protection of Maple Water Well Field Sanitary Isolation Area.<sup>159</sup> [Added 3-17-1980 by Ord. No. 1191]**

- A. It is the intention of the City to protect and maintain the sanitary isolation of the environment of the Maple Well Field free from all sources of contamination which might result in harm to the municipal wells located within this field, and which would adversely affect the physical isolation of the wells, as required by the Michigan State Health Department. The boundaries of the Maple Water Well Field Sanitary Isolation Area, which is located entirely within the City of Kalamazoo, State of Michigan, are described as follows:

Commencing in the center line of Maple Street, 1344.96 feet west of the center line of Westnedge Avenue; thence south 5.76 feet for the place of beginning; thence north 89 degrees, 55 minutes, 30 seconds east, 379.06 feet; thence south 06 degrees, 44 minutes, 20 seconds east, 386.92 feet; thence south 24 degrees, 16 minutes, 00 seconds east, 278.32 feet; thence south 89 degrees, 28 minutes, 27 seconds west, 324.76 feet; thence south 82 degrees, 33 minutes, 13 seconds west, 272.42 feet; thence south 89 degrees, 28 minutes, 27 seconds west, 225.15 feet; thence north 00 degrees, 57 minutes, 32 seconds west, 519.0 feet to a point 165.0 feet south of the center line of Maple Street; thence east parallel to said center line, 138.0 feet; thence north 00 degrees, 57 minutes, 23 seconds west, 158.93 feet; thence north 89 degrees, 55 minutes, 30 seconds east, 154.5 feet to the place of beginning.

- B. No construction or other activity which could adversely affect the well isolation will be permitted on or below the surface of the ground within the confines of the sanitary isolation area enclosing the Maple Water Well Field, without prior approval of the Director of Utilities for the City of Kalamazoo and the Director of the Michigan State Health Department.

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<sup>159</sup>.Editor's Note: Ord. No. 1191, adopted 3-17-1980 added § 38-40 to the Code, which section the editor has designated as § 38-22 for purposes of classification.

§ 38-23  
§ 38-23. (Reserved)

§ 38-31

§ 38-24. (Reserved)

§ 38-25. (Reserved)

§ 38-26. (Reserved)

§ 38-27. (Reserved)

§ 38-28. (Reserved)

§ 38-29. (Reserved)

§ 38-30. (Reserved)

§ 38-31. (Reserved)

**ARTICLE II  
Service Charges**

**§ 38-32. Rate schedules established.** [P.S. Code § PS403.112; amended 12-29-1975 by Ord. No. 1075; 3-3-1980 by Ord. No. 1188; 4-12-1982 by Ord. No. 1255; 10-18-1982 by Ord. No. 1270; 10-3-1983 by Ord. No. 1292; 3-26-1984 by Ord. No. 1317; 1-28-1985 by Ord. No. 1340; 2-16-1987 by Ord. No. 1404; 12-31-1990 by Ord. No. 1506; 9-8-1992 by Ord. No. 1543; 3-28-1994 by Ord. No. 1572; 2-17-1997 by Ord. No. 1631; 1-20-1998 by Ord. No. 1646; 3-1-1999 by Ord. No. 1670; 1-28-2002 by Ord. No. 1730; 4-19-2004 by Ord. No. 1768; 2-21-2005 by Ord. No. 1782; 3-6-2006 by Ord. No. 1799; 7-2-2007 by Ord. No. 1830; 2-2-2009 by Ord. No. 1851; 1-19-2010 by Ord. No. 1865; 2-21-2011 by Ord. No. 1879; 2-6-2012 by Ord. No. 1889; 5-5-2014 by Ord. No. 1920; 12-19-2016 by Ord. No. 1944; 1-16-2018 by Ord. No. 1955; 2-4-2019 by Ord. No. 1979; 2-17-2020 by Ord. No. 2002; 2-15-2021 by Ord. No. 2023; 2-21-2022 by Ord. No. 2043; 9-19-2022 by Ord. No. 2053]

A. The charge for water service furnished by the City shall be the sum of the service charge, dependent upon the size of the meter, plus the commodity charge, dependent upon the amount of water used, and the applicable customer class schedules as set forth below:

(1) Schedule A (quarterly).

<b>Service Charge (per quarter)</b>	
<b>Size of Meter (inches)</b>	
5/8 to 3/4	\$53.36
1	\$71.65
1 1/2	\$89.94
2	\$140.23

(2) Schedule B (monthly).

<b>Service Charge (per month)</b>	
<b>Size of Meter (inches)</b>	
5/8 to 3/4	\$22.87
1	\$28.97
1 1/2	\$35.06
2	\$51.83
3	\$175.30
4	\$221.02
6	\$327.72
8	\$449.65

(3) Commodity charges, Rate Schedules A and B.

<b>Rate Per Cubic Meter (on all water used)</b>	
<b>Customer Class</b>	
Single-family	\$0.881
Multifamily	\$0.648
Commercial	\$0.734

(4) Fire protection, Rate Schedule C (monthly).

<b>Demand Charge (monthly)</b>	
<b>Size of Detector Check (inches)</b>	
4	\$54.24
6	\$71.71
8	\$105.32
10	\$224.15

<b>Demand Charge (quarterly)</b>	
<b>Size of Detector Check (inches)</b>	
4	\$99.37
6	\$151.79
8	\$252.61
10	\$609.07

<b>Commodity Charge (per month)</b>	
<b>Per Cubic Meter</b>	
First 15 m <sup>3</sup> /mo.	\$0.734
Over 15 m <sup>3</sup> /mo.	\$2.201

Fire hydrants: \$40 per year on each private fire hydrant maintained in service.

§ 38-32 (5) Lawn sprinkling and seasonal use, Schedule D. Monthly and quarterly service charges under this schedule are based upon meter size and are the same as in Schedules A and B. Minimum annual service charges are equal to four times the quarterly service charge. § 38-33

<b>Commodity Charge</b> <b>Rate per cubic meter on all water used</b>
\$1.432 per cubic meter

(6) Water service installation charges, Schedule E. New service line installations shall be charged \$6,000 (for street plus yard service), and \$3,000 (for partial service). Such amounts shall be payable in full to the City of Kalamazoo prior to the scheduling of any work.

B. The rates established by this ordinance amendment shall go into effect for water bills rendered on or after January 1, 2023.

**§ 38-33. No free service; application of rate schedules. [P.S. Code § PS403.112; amended 12-29-1975 by Ord. No. 1075; 3-3-1980 by Ord. No. 1188; 4-12-1982 by Ord. No. 1255; 10-18-1982 by Ord. No. 1270; 10-3-1983 by Ord. No. 1292]**

A. There shall be no free water service rendered by the City to any customer.

B. The schedules prescribed by § 38-32 shall apply as follows:

- (1) Schedule A shall apply to all small general users and residential customers.
- (2) Schedule B shall apply to all customers large enough to warrant monthly billing. The limits of this schedule shall be prescribed by the Director of Public Services.
- (3) The classification of customers with respect to commodity charges under Schedules A and B shall follow these criteria:
  - (a) Residential: Primary use of property being served is residential with less than four dwelling units, excepting master-metered mobile home parks, which are included.
  - (b) Multifamily residential: Primary use of property is permanent or temporary residential with four or more dwelling units.
  - (c) Commercial/industrial: Primary use of property is for commercial/industrial, institutional, and miscellaneous purposes.
  - (d) The limits of the above classifications shall be prescribed by the Director of Public Services and shall consider water use, demand characteristics, and the primary use of the property. When the classification is in doubt or unclear, the consumer shall be assigned the classification with the highest commodity rate.
- (4) Schedule C shall apply to all services providing water to fire protection sprinkler systems.
- (5) Schedule D shall apply to all customers who have predominant uses, such as irrigation, lawn sprinkling, and air conditioning, which are seasonal in character and demand. The billing at the end of the season shall be adjusted to reflect the minimum annual service charge as noted in § 38-32A(5).
- (6) The utility's application of the various rate schedules and customer classifications as provided under this section may be appealed by a customer to the Public Services Director. A change in classification shall be made only upon receiving sufficient and appropriate evidence from the customer which established consumption characteristics and primary use of the property as being inconsistent with the current

§ 38-33 classification. The utility may change a customer classification or rate schedule upon written notification to the customer. Any reclassification shall be prospective only and not retroactive. § 38-39

**§ 38-34. Minimum charge. [P.S. Code § PS403.112; amended 12-29-1975 by Ord. No. 1075]**

The minimum charge for water service, covering periods during which no water has been used, shall be the service charge for the total billing period as prescribed by § 38-32. Minimum charges shall apply whenever water service is turned on and available to the customer and shall be discontinued only after the water has been turned off by the City.

**§ 38-35. (Reserved)<sup>160</sup>**

**§ 38-36. Rates outside City. [P.S. Code § PS403.112; amended 12-29-1975 by Ord. No. 1075; 4-12-1982 by Ord. No. 1255]**

Customers located outside the corporate limits of the City of Kalamazoo shall be charged the rates identified as "Outside City" in the various schedules established by this chapter.

**§ 38-37. Meter installation as separate customer account. [P.S. Code § PS403.112; amended 12-29-1975 by Ord. No. 1075]**

Each separate meter installation shall be considered, for purposes of the rate schedules set forth in this article, a separate customer account. A meter installation may be one meter or several meters, set in parallel, of the same size, from the same service connection, and covered by the same rate schedule. For such meters set in parallel, the registration shall be added together, and this total registration shall be considered as the total commodity used by that account, and applied to the appropriate rate schedule accordingly.

**§ 38-38. When due and payable; penalty for late payment. [P.S. Code § PS403.112; amended 12-29-1975 by Ord. No. 1075; 3-22-1976 by Ord. No. 1082; 3-1-1999 by Ord. No. 1669]**

All charges set forth in this article shall become due and payable on or before the due date, as indicated on each bill. Payments made after such date shall include an additional 5% of the net amount due on the due date.

**§ 38-39. Charges as lien; collection by suit, discontinuing water service for failure to pay. [P.S. Code § PS403.112; amended 12-29-1975 by Ord. No. 1075; 3-22-1976 by Ord. No. 1082; 3-3-1980 by Ord. No. 1188; 11-1-1982 by Ord. No. 1272]**

- A. The charges for water service are hereby recognized to constitute a lien on the premises receiving such service. This lien shall become effective immediately upon providing water service to the premises, but shall be not enforceable for more than three years after it becomes effective. Whenever any such charge against any property shall be delinquent for three months, the City officials in charge of the collection thereof may certify to the tax assessing officer of the City the fact of such delinquency, whereupon such charge shall be entered upon the next roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. Nothing in this section, however, shall be deemed to prevent the City from suing in a court of law to collect the amount due it for water service charges as provided in Subsection C below. In addition to the other remedies provided in this section, the City shall have the right to shut off and discontinue the supply of water service to any premises for the nonpayment of water service charges when due in accordance with the procedure established in Subsection B below.
- B. If a charge for water service prescribed by this article is not paid within 30 days after the billing therefor, and

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<sup>160</sup>Editor's Note: Former § 38-35, relative to charges when a meter serves more than one residence, etc., as derived from P.S. Code, § PS403-112 and Ord. No. 1075, adopted 12-29-1975, was repealed 4-12-1982 by Ord. No. 1255.



§ 38-39 after the customer has been given notice and an opportunity to be heard as provided by law, all water service may be shut off and discontinued to the customer owing or liable for such charge. Water service shutoff pursuant to this section shall not be restored until all sums due and owing have been paid in full, including a collection fee of \$60 and appropriate security deposits, as prescribed by resolution of the City Commission. **[Amended 1-13-2014 by Ord. No. 1914]**

C. At its option the City may, in addition to the remedies above, in its corporate name, bring suit in any court of competent jurisdiction for the collection of any water service charge which, 30 days after the billing therefor, has not paid. The production of the meter record or cost record shall be prima facie evidence of the liability to pay the amount therein shown to be due.

**§ 38-40. Water leak adjustment policy. [Amended 6-29-1992 by Ord. No. 1537]**

Where a loss of service occurs under specific circumstances from underground water line leakage, an adjustment for that loss may be applicable as determined by the Director of Public Utilities in accordance with the leak adjustment policy which may be adopted and amended from time to time by resolution of the City Commission.



**Chapter 39**

**WELLHEAD PROTECTION**



§ 38-40

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 10-17-2022 by Ord. No. 2057.<sup>161</sup>**

**Amendments noted where applicable.]**

**§ 39-1. Intent; purpose.**

The intent of the City of Kalamazoo Wellhead Protection Ordinance is to safeguard the health, safety, and welfare of persons served by the City of Kalamazoo Public Water Supply System by protecting groundwater that serves as drinking water, thus providing a safe potable water supply now and for future generations.

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**161. Editor's Note: This ordinance also repealed former Ch. 39, Weights, Scales and Measures, adopted as Adm. Code § A213.41, as amended 8-27-1979 by Ord. No. 1169.**



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**§ 39-2. Definitions.**

The following definitions apply to this chapter:

**AVAILABLE MUNICIPAL SANITARY SEWER SYSTEM** — A public sanitary sewer system located in a right-of-way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the property and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.

**BEST MANAGEMENT PRACTICES (BMP)** — The best available methods, activities, maintenance procedures, technologies, operating methods, or management practices for preventing or reducing the quantity of regulated substances entering groundwater and surface water from a particular land use activity.

**CAPTURE ZONE** — That area through which water travels below the surface and reaches a City well or wellfield within a specified period (under specified conditions set by the EGLE). This chapter addresses both a one-year and ten-year time-of-travel capture zone.

**CITY** — The City of Kalamazoo.

**GROUNDWATER** — The water below the land surface in a zone of saturation, excluding those waters in underground piping for water, wastewater, or stormwater distribution/collection systems.

**MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY (EGLE)** — Including its predecessor and successor agencies.

**PERFORMANCE STANDARDS** — Those BMPs and engineering controls contained within the document "City of Kalamazoo Performance Standards for Groundwater Protection within Wellhead Protection Capture Zones and Stormwater Quality Management."

**RCRA** — The Resource Conservation and Recovery Act of 1976 (Pub. L. No. 94-580; 42 U.S.C. § 6901 et seq.), as amended.

**REASONABLY AVAILABLE PUBLIC WATER SERVICE** — Municipal potable water service is available at a street adjacent to the property and can be delivered to the property at pressures and flows that meet the 10 States Standards for Water Works.

**REGULATED SUBSTANCES** —

A. Includes:

- (1) Substances for which there is a safety data sheet (SDS), as established by the United States Occupational Safety and Health Administration, and the SDS cites possible health hazards for said substance;
- (2) Hazardous waste, as defined by the Solid Waste Disposal Act, being Title II of Public Law 89-272, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 to 6992k, Part 111, as amended;
- (3) Hazardous substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with the U.S. EPA regulations;
- (4) Radioactive materials; and
- (5) Biohazards.

B. The term "regulated substances" does not include:

- (1) Substances in an amount equal or less than 2,200 pounds that are in an area capable of fully containing a total release of said substance or an area that would drain the substance to a wastewater treatment system, excluding septic tanks systems, capable of treating the released substance(s);
- (2) Substances in a parked or stopped vehicle in transit, provided the vehicle is stopped or parked for less

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than 72 hours;

- (3) Substances, such as gasoline or oil, in operable motor vehicles or boats so long as used solely for the operation of the vehicle, but not the tanker portion of a tank truck;
- (4) Pressurized gases such as chlorine, propane, hydrogen, and nitrogen when in a chemical storage tank;
- (5) Refrigerants contained within equipment and used for on-site air cooling or in household appliances;
- (6) Substances contained within electrical utility transformers/switches; or
- (7) Substances used in construction for which all necessary permits have been obtained, and in accordance with the "Performance Standards."

RELEASE — The spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of one or more regulated substances upon or into any land or water within a capture zone. "Release" includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry well, catch basin, or landfill. The term "release," when used and applied in this chapter, does not include:

- A. Disposal, in accordance with all applicable legal requirements, including those in RCRA and CERCLA, of hazardous wastes in a facility that has received and maintained all necessary legal approvals for that purpose;
- B. Disposal of any substance in compliance with applicable legal requirements, including, without limitation, the terms and provisions of a valid municipal, state, or federal permit;
- C. Disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;
- D. Disposal, in accordance with all legal requirements, of sanitary sewage to subsurface sewage disposal systems as defined and permitted by the State of Michigan or Kalamazoo County Environmental Health;
- E. A release for which there is no obligation to report under federal, state, or other local regulations that occurs on an impervious ground surface (e.g., building floor or concrete driveway) that is effectively cleaned up before reaching permeable ground (e.g., unpaved), a dry well, a storm sewer, or surface water body; or
- F. The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc., as used in routine agricultural operations and applied under the Generally Accepted Agricultural and Management Practices, and consistent with label directions approved by the United States Environmental Protection Agency or the Michigan Department of Agriculture.

SPILL CONTINGENCY PLAN — A written site-specific plan conforming to the specifications contained in the Performance Standards, including the documentation of general site operations; regulated substance storage areas; potential for releases of regulated substances and an analysis of the potential destination of such releases; and procedures to be followed in the event of a release.

WELLHEAD — Any well used for supplying water.



**§ 39-3. Responsibility for administration.**

The City's Department of Public Services ("Department") shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Department may be delegated in writing by the Department Director to third parties as said Director deems appropriate.



**§ 39-4. Prohibitions within ten-year time-of-travel (TOT) capture zone.**

Within a ten-year time-of-travel (TOT) capture zone, no person shall, nor cause or allow another over whom he or she has control to:

- A. Release or allow the release of a regulated substance, alone or in combination with other materials (such as fill) in such a manner that the substance gains access to the ground, to a storm sewer or surface water or in any other way such that the substance might enter the groundwater if doing so creates a reasonable likelihood of an adverse impact upon the groundwater.
- B. Possess a regulated substance, including fuels (e.g., gasoline, diesel, kerosene, etc.) exceeding 55 gallons aggregate for liquid materials, or 440 pounds aggregate for dry weights, unless prepackaged and intended for retail sale or for commercial or household use (such as salt used in water softeners, fertilizers, pesticides, herbicides, etc.), or unless engineering controls are designed and implemented consistent with the City's Performance Standards, BMPs, the City's Fire Code, and applicable State of Michigan and federal laws and regulations. The following, however, shall not be considered prohibited activities:
  - (1) The use of underground oil/water separators and stormwater treatment structures which meet the conditions of the Performance Standards;
  - (2) The use of current hazardous waste storage areas at RCRA permitted facilities; and
  - (3) Laboratory activities, consistent with all federal, state, and local regulations.
- C. Operate a junk, scrap, recycling, or salvage yard;
- D. Operate a sanitary/solid waste landfill;
- E. Use oil, waste oil or similar liquid petroleum-type products for dust suppression;
- F. Install a private water well for the purpose of drinking water or irrigation if, in the determination of the Department, a reasonably available public water service exists;
- G. Install or use a private water well for a purpose other than drinking water or irrigation unless it is determined by the Department that the well owner (or the representative of the well owner) has scientifically demonstrated that the well will not cause an adverse impact to the public water supply;
- H. Excavate, extract, or mine sand, gravel, bedrock, or any other type of earth if a permit or site plan review is required unless the property owner has established, to the Department's satisfaction, that the activity will not cause an adverse impact to the public water supply;
- I. Allow the presence of an abandoned well, which is defined as any well which has either been discontinued for more than one year, is in such disrepair that its continued use for obtaining groundwater is impractical, has been left uncompleted, is a threat to groundwater resources, or is a health or safety hazard. A well shall not be considered abandoned if it has been properly plugged pursuant to the Groundwater Quality Control Act, Part 127, 1978 P.A. 368; or
- J. Drill for natural gas or petroleum, whether for exploration, production or otherwise.
- K. Except for facilities approved by the Kalamazoo County Human Services Department in accordance with the county public health code sewage disposal regulations, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of domestic or nondomestic wastewater within the City.



**§ 39-5. Prohibitions within one-year time-of-travel (TOT) capture zone.**

Within a one-year time-of-travel (TOT) capture zone, no person shall, nor cause or allow another, over whom he or she has control, to:

- A. Engage in any activity prohibited in the ten-year TOT capture zone;
- B. Possess regulated substances, including fuels (e.g., gasoline, diesel, kerosene, etc.) exceeding 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights, such as sometimes occurs with activities such as fueling service establishments, motor vehicle repair, body repair; trucking or bus terminals; primary metal product industries; metal plating, polishing, etching, engraving, anodizing or similar processes; lawn, garden, pesticide and agricultural services with on-site bulk mixing or blending of fertilizers, pesticides and other industry-related chemicals for commercial application; and dry-cleaning facilities with on-site cleaning service;
- C. Construct or replace any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of domestic or nondomestic wastewater where an available municipal sanitary sewer system exists;  
or
- D. Construct or replace any dry wells.



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**§ 39-6. Well isolation distance restrictions.**

Within either capture zone, no person shall cause or allow uses or activities that would violate the terms and conditions set forth in the document "Minimum Well Isolation Distances (From Contamination Sources and Buildings), Part 127, Act 368, P.A. 1978 and Act 399, P.A. 1976," as prepared by the EGLE, Water Division, as it may be amended, which, for the purpose of this section, shall be deemed to apply to all persons, unless approved in writing by the Department Director or his or her designee.





**§ 39-7. Determination of capture zone boundaries.**

In determining whether a property is within a capture zone, the following shall apply:

- A. Where a capture zone line that delineates the boundary of one or more TOT zones passes through a property, the entire parcel shall be subject to the restrictions that apply to the more restrictive zone.
- B. The Public Services Director, or his or her designee, shall have the authority to interpret the capture zone and determine where the boundaries of the different zones fall, if in dispute. Said interpretation may be appealed to the Director.



**§ 39-8. Continuation of existing nonconforming facilities and land uses.**

- A. Existing nonconformities for land uses/activities will be allowed within a capture zone only when in conformance with the City of Kalamazoo Zoning Ordinance.
- B. In addition, the facility must meet the requirements of the Performance Standards and/or shall prepare a spill contingency plan within two years from the adoption date of this chapter or one year from the date of contact from the City regarding recognition of the nonconforming status, whichever is sooner. The City reserves the right to approve/determine which option(s) is to be implemented for the specific circumstance.
- C. Nothing in this chapter shall be interpreted to prevent the City from undertaking any actions to prevent or enjoin a nonconforming use in a capture zone from activities that negatively impact groundwater within a capture zone that violate the provisions of this chapter.



**§ 39-9. Requirements regarding release of regulated substances.**

- A. If hazardous substances or any other contamination is known or suspected to have migrated or discharged to a City-owned utility or corridor, or caused an illicit stormwater discharge, the City shall be immediately contacted to abate or remedy any potential public health and safety risks, including, but not limited to, vapor inhalation, fire, explosion, direct contact, discharge to a surface water body and/or impact to groundwater drinking water supplies.
- B. Upon discovery of a release within a capture zone, the owner and person in control of the property on which a release occurred, as well as the person responsible for the release, shall take appropriate reasonable actions to mitigate the potential impact of the release on groundwater and remediate the release. Within 24 hours of a known or suspected release, the release must be reported to the State of Michigan, Pollution Emergency Alerting System (PEAS) at (800) 292-4706. Remediation must be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a regulated substance release must be handled in accordance with all applicable legal requirements. Storage of these materials for a period of greater than 90 days must be reported to, and approval obtained from, the Public Services Director or designee of said official.
- C. All releases shall be documented in writing and mailed or emailed to the Department within 10 business days of said incident. Initial release notification shall include, at a minimum, the following:
- (1) Location of the release (name, parcel address, and phone);
  - (2) Reporting party's name, mailing address, email address and phone (if different from above);
  - (3) Emergency contact person(s) (including email address and phone);
  - (4) Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) released;
  - (5) Map showing exact release location, and relevant site features (i.e., streets, paved area, storm sewer catch basins/inlets, water features, etc.), scale, and North arrow;
  - (6) All measures taken to clean up the release; and
  - (7) All measures proposed to be taken to reduce and prevent any future release.
- D. The Public Services Director or his/her designee shall use the regulated substance release report to determine if and where any additional investigative work needs to be completed to assess the potential impact of the release. The owner or operator shall retain a copy of the written notice for at least three years.



**§ 39-10. Inactive operations.**

This section applies to any business or other operation ("operation") that is inactive, is within a capture zone, and at which there are regulated substances. For purposes of this section, "inactive" is defined to include those businesses/operations that are unoccupied and have no activity for at least 30 days. Those who own or control such an inactive operation shall do the following:

- A. Within seven days of the operation becoming inactive, take such steps as necessary to secure the site such that vandals and all other persons cannot gain access to the regulated substances;
- B. Within 30 days of the operation becoming inactive, provide to the Public Services Director a document that identifies the site, the date of inactivity, the regulated substances that exist on site, and the name, address, and telephone number of both the owner and the person in control of the site; and
- C. Within six months of the operation becoming inactive, remove all regulated substances from the site; this does not include those substances used for heating, cooling, or electrical lighting.





**§ 39-11. Enforcement.**

- A. Municipal civil infraction. Any violation of this chapter is a municipal civil infraction, punishable by a fine of up to \$10,000 and any equitable remedies necessary to abate the violation, including but not limited to the costs incurred for abatement and cleanup. Each day a violation exists shall be deemed a separate violation. A citation charging such a violation may be issued by the Director, his or her designee, or an officer of the Department of Public Safety.
- B. Abatement/remedial activities by the Department.
- (1) The Department is authorized to take or contract with others to take reasonable and necessary abatement or remedial activities whenever the Department determines a violation of this chapter has occurred and that the responsible party cannot or will not timely correct the violation, or when no known responsible party exists. The responsible party shall reimburse the City for all reasonable expenses thus incurred by the City.
  - (2) If the City desires the responsible party to reimburse it for reasonable abatement activity expenses, the City shall, within 90 days of the completion of said activities, mail to that person a notice of claim outlining the expenses incurred, including reasonable administrative costs, and the amounts thereof. The person billed shall pay said sum in full within 30 days of receipt of the claim. If the person billed desires to object to all or some of the amount sought by the Department, said person may file, within the same thirty-day period, a written objection so stating. The Department shall, within 30 days of its receipt of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the Department determines that some or the entire amount originally billed is appropriate, the person shall pay said sum within 30 days of receipt of that determination. If the amount due is not timely paid, the City may cause the charges to become a special assessment against the property and shall constitute a lien on the property. In the alternative, the City may attempt collection of the sum due by filing a civil lawsuit.
- C. Injunctive relief. If a person has violated or continues to violate the provisions of this chapter, the Department may petition the appropriate court for injunctive relief restraining the person from activities that would create further violations or compelling the person to perform necessary abatement or remediation.
- D. Violations deemed a public nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.
- E. Remedies not exclusive. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Department to seek cumulative remedies.



**§ 39-12. Variance/appeal rights.**

- A. If an owner of property within a capture zone believes the requirements of this chapter impose an unreasonable burden on the use of the owner's property, the owner may seek a variance from the Department Director (or his or her designee). Such a request must be in writing with enough detail to allow the Director to understand the situation and proposed variance. If the Director determines that additional information is needed, the request for additional information shall be made within 30 days of the owner's request. Within 30 days of the receipt of such additional information, or, if no such request is made, within 30 days of the owner's request, the Director shall issue a written response to the owner. The response shall grant, deny, or partially grant the request. A grant, partial or complete, may relieve the property owner from strict compliance with this chapter. Reasonable conditions may be imposed as part of such a grant. The Director shall be guided by the primary goal of protecting the City's wellfields without creating undue hardship upon the property owners affected.
- B. Any person receiving a notice of violation may appeal the determination set forth within the notice to the Department Director by submitting a written notice of appeal to the Department. The notice of appeal must be received by the Director within 30 days from the date of the notice of violation, with enough detail to allow the Director to understand the situation. Within 30 days of the receipt of such an appeal, the Director shall issue a written response to the appeal unless additional information is requested by the Director, in which case the response shall issue within 30 days of receipt of the information. The Director's response shall affirm, reverse, or modify the notice of violation being appealed.
- C. If the person who has made a variance request or an appeal of a notice of violation does not agree with the Director's decision, said person may appeal the matter by filing an action in the Kalamazoo Circuit Court, which may affirm, reverse, or modify the decision being appealed. Such an appeal must be filed within 30 days of the Director's final decision.



**Chapter 40**  
**WRECKERS**



§ 39-12

§ 39-12

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Provisions of Traffic Code requiring report when vehicle moved without knowledge or consent of owner — See § 36-11.

Vehicle accidents — See § 36-239 et seq.

Vehicles for hire — See Ch. 37.

Vehicle equipment generally — See § 36-43 et seq.





ARTICLE I  
**In General**  
**[Adopted 11-18-1974 by Ord. No. 1036]**

**§ 40-1. Definitions.**

The following words, when used in this chapter, shall, for the purpose of this chapter, have the meanings ascribed to them in this section:

**CRUISING** — The driving of a wrecker on the streets, alleys or public places of the City in a fashion or manner calculated for the purpose of soliciting or seeking business.

**OPERATOR** — Any person operating a wrecker or a towing vehicle for a wrecker and towing service.

**WRECKER** — Any motor vehicle adapted to or designed for towing, transporting, conveying or moving any and all types of vehicles which are unable to be or actually are not operated under their own power, such towing or transporting being accomplished by means of lifting the towed vehicle totally or partially off of the ground.

**WRECKER AND TOWING SERVICE** — The business of providing the services of one or more wreckers for hire or use to tow, transport or move motor vehicles on public streets.

**§ 40-2. Application of chapter.**

The operation of a wrecker or wrecker and towing service within the limits of the City shall be subject to the provisions of this chapter.

**§ 40-3. Identification. [Amended 3-11-1985 by Ord. No. 1344]**

Every wrecker shall be identified by letters, not less than one inch in height, showing the name under which the wrecker and towing service is operated. Such identification shall be clearly and permanently attached on both sides of the wrecker and shall be visible at all times.

**§ 40-4. Required equipment and condition. [Amended 7-12-1976 by Ord. No. 1093; 3-11-1985 by Ord. No. 1344]**

- A. Each wrecker shall be maintained in good mechanical condition and shall be equipped with, but not limited to, the following:
- (1) Fender coverings for front and rear wheels.
  - (2) Brakes sufficient to hold the combined weight of the towing vehicle and the vehicle towed on a grade of not less than 6%.
  - (3) Rear brake lights, turn signal lights and running lights, which shall be visible to following traffic when the wrecker is connected to towed vehicles, and an amber rotating dome warning light having a diameter of not less than five inches, in addition to other lighting and reflectors required by law.
  - (4) A portable fire extinguisher having a capacity of not less than 2 1/2 pounds (dry chemical).
  - (5) Three flares capable of burning for not less than 20 minutes, or three portable red reflectors or three flags having an area of not less than eight inches square.
  - (6) A winch with a capacity of not less than 6,000 pounds, with a cable capable of withstanding a test of not less than 10,000 pounds at breaking point.
  - (7) A safety chain or chains, with a capacity sufficient to hold or retain any vehicle the wrecker is capable of towing or transporting, and having a total or combined length of 12 feet.

**§ 40-5. Duty of driver to clean streets when removing wrecked vehicle.**

Whenever any driver of a wrecker removes a motor vehicle from the scene of an accident on a public street, it shall be his duty to simultaneously remove and carry away from the public street all glass, metal and debris, which may have been cast upon the street as the result of the accident or collision.

**§ 40-6. Required consent or authorization to remove vehicle from street.**

It shall be unlawful for any wrecker and towing service or operator to tow or otherwise move a vehicle from any area or portion of a public street, without either the consent of the owner or custodian of such vehicle or authorization by a policeman or other designated official of the City.

**§ 40-7. Request required for removal of vehicle from private property. [Amended 11-24-1975 by Ord. No. 1070]**

- A. It shall be unlawful for any wrecker and towing service or operator to block the movement of or tow or otherwise move a vehicle from any private road, driveway or other privately owned land or property within the City, except:
- (1) When requested to do so by the owner or custodian of the vehicle.
  - (2) When specifically requested to perform such towing service by an owner, his agent or licensee (other than the owner, employee or agent of the wrecker and towing service) of the private property on which the vehicle is parked.

**§ 40-8. Notice to Public Safety Department prior to moving vehicle without consent of owner or custodian. [Amended 1-13-2014 by Ord. No. 1915]**

- A. It shall be unlawful for any wrecker and towing service or operator to fail to notify, by telephone or other means, the Public Safety Department before the removal of a vehicle from public or private property, when such vehicle is removed without consent of the owner or custodian of the vehicle.
- B. A violation of this section shall be a municipal civil infraction and shall subject the wrecker and towing service or operator to a civil fine of \$200. A subsequent violation of this section by a wrecker and towing service or operator within six months of a prior offense shall subject the violator to a civil fine of \$500.

**§ 40-9. (Reserved)<sup>162</sup>****§ 40-10. Blocking movement of vehicle by its owner or custodian.**

It shall be unlawful for a wrecker and towing service or operator to block the movement of any vehicle, other than when on the property of the wrecker and towing service, to prevent the movement thereof by its owner or custodian who has appeared and desires to move the vehicle.

**§ 40-11. Refusal to release vehicle prepared for towing from private property. [Amended 2-24-1992 by Ord. No. 1525; 4-18-1994 by Ord. No. 1575; 10-16-2000 by Ord. No. 1709]**

- A. It shall be unlawful for a wrecker and towing service or operator to refuse to release a vehicle to its owner or custodian after it has been prepared for towing from any private property, provided that the vehicle has not yet been towed onto a public street or highway, and further provided such owner or custodian pays a service run fee, if demanded, of not more than the maximum amount for such service authorized by the City Commission.

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<sup>162</sup>Editor's Note: Former § 40-9, which pertained to moving vehicles out of the City, was repealed 3-11-1985 by Ord. No. 1344.

- § 40-11
- § 40-16
- B. For purposes of this section, "prepared for towing" means the attaching to the vehicle of any device or object designed or intended to assist in the moving of that vehicle.
- C. In the event that the owner or custodian of the vehicle demands its release prior to the time it has been prepared for towing, it shall be unlawful for the wrecker and towing service or operator to refuse to release the vehicle, provided that the owner or operator promptly removes the vehicle from the property where it is parked.

**§ 40-12. Maximum charges. [Amended 7-31-1978 by Ord. No. 1137; 2-24-1992 by Ord. No. 1525; 10-16-2000 by Ord. No. 1709]**

- A. The City Commission shall establish by resolution and/or contract the maximum amounts which may be charged for any towing or wrecker service. Such fees shall apply to all services provided in the City of Kalamazoo, including the storage of any vehicle in the City, regardless of where the towing or impound of that vehicle originated. Any fee established by the City Commission shall be applicable, however, to any vehicle auction conducted by representatives of the City of Kalamazoo or the Kalamazoo Department of Public Safety, regardless of where that auction is held. It shall be unlawful to demand or require payment of any charge in excess of any fee established by the City Commission.
- B. A towing or wrecker service provider which removes a vehicle from private property without the consent of the owner or custodian of that vehicle between the hours of 6:00 p.m. and 6:00 a.m. shall, at the time it impounds the vehicle, be open to the public 24 hours per day, seven days per week in order to provide the owner or custodian of the impounded vehicle with an opportunity to promptly reclaim the vehicle.
- C. A towing or wrecker service provider which removes a vehicle from private property without the consent of the owner or custodian of that vehicle shall accept any major credit card. For purposes of this subsection, the term "major card" shall mean Discover, MasterCard, or Visa.
- D. A towing or wrecker service provider, or an employee of such a service provider, who removes a vehicle from private property without the consent of the owner or custodian of that vehicle, or which returns a vehicle which has been prepared for towing from private property, shall provide a receipt when payment in full for all charges due is received. This receipt shall contain the following language in at least eleven-point type: "The removal of vehicles from private property, including all fees and charges related to that service, is regulated by the City of Kalamazoo. Further information on these regulations and on permitted fees can be obtained by calling the Kalamazoo City Clerk at 337-8792."

**§ 40-13. Exception from §§ 40-6 through 40-12.**

The provisions of §§ 40-6 through 40-12 shall not apply when a wrecker and towing service or operator is acting as an agent in a legal repossession of a vehicle.

**§ 40-14. (Reserved)<sup>163</sup>**

**§ 40-15. Protection of impounded or stored vehicles and contents thereof.**

Vehicles impounded, stored or held by a wrecker and towing service, without the consent of the owner or custodian of the vehicle or the direction of the police, must be protected from theft, vandalism or damage of any type and the wrecker and towing service operator or his employees shall do nothing to render the vehicle inoperable other than to remove the ignition key and lock the vehicle. Items of personal property in the vehicle, but not attached or accessory thereto, shall be safeguarded and must be surrendered or delivered to the owner or custodian of the vehicle upon demand or release of the vehicle. The wrecker or towing service has no lien upon personal property not attached to or accessory to the vehicle.

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163. Editor's Note: Former § 40-14, which pertained to soliciting and cruising for business, as amended, was repealed 3-11-1985 by Ord. No. 1344.  
34:175

§ 40-16  
§ 40-16. (Reserved)

§ 40-25

§ 40-17. (Reserved)

§ 40-18. (Reserved)

§ 40-19. (Reserved)

§ 40-20. (Reserved)

§ 40-21. (Reserved)

§ 40-22. (Reserved)

§ 40-23. (Reserved)

§ 40-24. (Reserved)

§ 40-25. (Reserved)

ARTICLE II  
(Reserved)<sup>164</sup>

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**164. Editor's Note: Former Art. II, §§ 40-26 through 40-36, which pertained to wrecker licenses, was repealed 3-11-1985 by Ord. No. 1344. The repealed provisions derived from Ord. No. 1036, § 1(PL1216.2—PL1216.4, PL1216.6, PL1216.7, PL1216.10), enacted 11-18-1974, and Ord. No. 1070, enacted 11-24-1975.**



**Chapter 41**

**CABLE TELEVISION**





§ 40-25

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 12-10-1990 by Ord. No. 1503. Amendments noted where applicable.]**

§ 40-25

**GENERAL REFERENCES**

**Cable television rate regulations — See Ch. 43.**

**Telecommunications — See Ch. 45.**

**Cable communications — See Ch. 44.**



**ARTICLE I  
In General**

**§ 41-1. Title and purpose.**

- A. Title. This chapter shall be known and may be cited as the "Cable Television Consumer Protection Policy of the City of Kalamazoo."
- B. Purpose. The general purpose of this chapter is to protect the public health, safety, comfort and the general welfare of the people of the City. These general objectives include, among others, the following specific purposes:
  - (1) To protect consumers of cable television services, (hereinafter referred to as "subscribers") from billing, appointment, scheduling, installation, maintenance, repair, program deletion, and other service problems avoidable by the due diligence of a cable system operator; and
  - (2) To protect consumers of cable television services ("subscribers") and their homes by providing parameters for the scheduling of service and installation appointments.

**§ 41-2. Definitions.**

- A. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

APPOINTMENT WINDOW — A specifically scheduled block of time in which service and/or installation and/or disconnection is scheduled to occur, when a cable operator's staff is to arrive at the consumer's home, office, business or other location.

BASIC CABLE SERVICE — Any service tier which includes the retransmission of local television broadcast signals.

CABLE ADMINISTRATOR — The term for the City's authorized designee on cable television matters.

CABLE CONSUMER PROTECTION LAW — This chapter, any other ordinance of the City of Kalamazoo or statute of the State of Michigan pertaining or related to the conditions, billing and provision of cable television services to subscribers, which ordinance or statute serves to protect the interests of parties subscribing (or considering subscribing) to cable television services.

CABLE OPERATOR — Any person, or group of persons:

- (1) Who provides cable service over a cable system or directly or through one or more affiliates owns a significant interest in such cable system; or
- (2) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

CABLE SERVICE —

- (1) The one-way transmission to subscribers of:
  - (a) Video programming; or
  - (b) Other programming or electronic services; and
- (2) Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

CABLE SYSTEM — A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video

§ 41-2

§ 41-2

programming, or other electronic services, and which is provided to multiple subscribers within a community, but such term does not include:

- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (2) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;
- (3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Federal Communications Act of 1934, except to the extent that such facility shall be considered a cable system [other than for purposes of Title 47 of the United States Code, § 541(c)];
- (4) A facility, to the extent such facility is used in the transmission of video programming directly to subscribers; or
- (5) Any facilities of any electric utility used solely for operating its electric utility systems.

CITY — The City of Kalamazoo, its elected and appointed officers, and/or their authorized designee(s) acting on behalf of the City in a fiduciary capacity.

CUSTOMER SERVICE — The direct business relation between a cable operator and a subscriber, including but not limited to programming, installation, disconnection, and reconnection.

CUSTOMER SERVICE REQUIREMENTS — Include, but are not limited to, requirements related to interruption of service; disconnection; rebates and credits to consumers; deadlines to respond to consumer requests or complaints; the location of a cable operator's consumer service offices; and the provision to customers (or potential consumers) of information on billing or services.

EDUCATIONAL ACCESS CHANNEL — Any channel on which certain schools, as defined herein, may cablecast educational programs on a first come, first served, nondiscriminatory basis.

GOVERNMENT ACCESS CHANNEL — Any channel on which the City may cablecast.

NORMAL BUSINESS DAY — Those days from Monday through Friday, inclusive, except for federal, state and local holidays.

OTHER PROGRAMMING SERVICE — Information that a cable operator makes available to all subscribers generally, other than what is already defined in this section.

PERSON — An individual, partnership, association, joint stock company, joint venture, trust, corporation, or other entity.

PUBLIC ACCESS CHANNEL — Any channel on which any resident of Kalamazoo County may cablecast, without charge, on a first come, first served, nondiscriminatory basis, onto a cable system operating within the City of Kalamazoo.

PUBLIC, EDUCATIONAL OR GOVERNMENT (or "PEG") ACCESS FACILITIES —

- (1) Channel capacity designated for public, educational, or governmental use; and
- (2) Facilities and equipment for the use of such channel capacity.

SERVICE TIER or TIER — A group of cable services or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

SERVICE WINDOW — The same as "appointment window" defined in this subsection.

SIGNAL — A television channel signal, or radio frequency or lightwave signal, capable of carrying intelligence.

SUBSCRIBER — A consumer of cable television services, who is a customer of a cable operator, and who

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subscribes to and is provided with cable television services.

§ 41-10

VIDEO PROGRAMMING — Programming provided by, or generally considered comparable to programming provided by television broadcast stations, the multichannel/multipoint distribution service, direct broadcast satellites, optical fiber, and similar or equivalent multichannel distribution systems.

**§ 41-3. Compliance with chapter, generally.**

No person, individual, party, partnership, corporation, joint venture, consortium, trust, or other entity shall provide or contract to provide cable television services within the City of Kalamazoo except so as to comply with all applicable provisions of this chapter.

**§ 41-4. (Reserved)**

**§ 41-5. (Reserved)**

**§ 41-6. (Reserved)**

**§ 41-7. (Reserved)**

**§ 41-8. (Reserved)**

**§ 41-9. (Reserved)**

**§ 41-10. (Reserved)**



ARTICLE II  
**Consumer Protection and Customer Service Standards**

DIVISION 1  
 Office and Telephone Service

**§ 41-11. Service center and bill payment locations; hours of availability.**

The Kalamazoo Customer Service Center and bill payment locations will be open for transactions during the following hours:

- A. Monday through Friday (holidays excepted) from 8:30 a.m. through 6:00 p.m.; and
- B. Saturdays from 9:00 a.m. until 12:00 noon (holidays excepted).

**§ 41-12. Customer service availability.**

Knowledgeable, qualified company service representatives will be available to respond to customer telephone inquiries during the following times:

- A. Monday through Friday (holidays excepted) from 8:30 a.m. to 6:00 p.m.; and
- B. Saturdays from 9:00 a.m. to 12:00 noon (holidays excepted).

**§ 41-13. Limitation regarding telephone busy signals.**

Under normal conditions, the subscriber will receive a busy signal less than 3% of the total time that the Kalamazoo cable office is normally open for business.

**§ 41-14. Telephone response time.**

- A. Generally.
  - (1) Under normal operating conditions, telephone answer time by a customer service representative, including wait time, and the time required to transfer the call, shall not exceed one minute from the effective date of this chapter through March 1, 1991, and 45 seconds after March 1, 1991.
  - (2) Those systems which utilize automated answering and distributing equipment will limit the number of routine rings to four or fewer. Systems not utilizing automated equipment shall make every effort to answer incoming calls as promptly as the automated systems.
  - (3) This standard shall be met no less than 90% of the time measured on an annual basis.
- B. Service as of the effective date of this chapter. Under normal operating conditions, from the effective date of this chapter through March 1, 1991, all times during regular business hours, the cable operator shall connect a telephone caller to a live qualified customer service representative of the cable operator within one minute.
  - (1) Said representative shall be capable of responding to the cable related inquiries and requests of a consumer, including but not limited to, scheduling appointments, adjusting accounts for credits, payments or debit inquiries, and dispatching technicians to a subscriber's residence or area for a service call.
  - (2) The cable operator shall not be considered to be in compliance with the one minute response time if the cumulative effect of the response time and any time "on hold" exceeds one minute. As an example, if the delay from the time the telephone rings until the time the cable operator answers the telephone exceeds 20 seconds, and the "hold time" is 40 seconds, this would exceed one minute and would be a

§ 41-14 violation.

§ 41-22

(3) The one minute response time standard shall be met no less than 90% of the time measured on an annual basis.

C. Service after March 1, 1991. Under normal operating conditions, commencing on March 1, 1991, and at all times during regular business hours thereafter, the cable operator shall connect a telephone caller to a live qualified customer service representative within 45 seconds.

(1) Said representative shall be capable of responding to the cable related inquiries and requests of a consumer, including but not limited to, scheduling appointments, adjusting accounts for credits, payments or debit inquiries, and dispatching technicians to a subscriber's residence or area for a service call.

(2) The cable operator shall not be considered to be in compliance with the 45 second response time if the cumulative effect of the response time and any time "on hold" exceeds 45 seconds. As an example, if the delay from the time the telephone rings until the time the cable operator answers the telephone exceeds 20 seconds and "hold time" is 25 seconds, this would exceed 45 seconds.

(3) The forty-five-second response time standard shall be met no less than 90% of the time measured on an annual basis.

**§ 41-15. Subscriber complaints; timely response.**

A. Response to subscriber complaints shall be initiated within one business day of receipt; and

B. The resolution of subscriber complaints shall be effected by the operator not later than three business days after receipt of the complaint;

C. Should a supervisor not be available when requested by a subscriber, a supervisor employed by the operator shall return the subscriber's telephone call at the earliest possible time and in no event later than the end of the next business day.

**§ 41-16. (Reserved)**

**§ 41-17. (Reserved)**

**§ 41-18. (Reserved)**

**§ 41-19. (Reserved)**

**§ 41-20. (Reserved)**

DIVISION 2

Installations, Outages, and Service Calls

**§ 41-21. Generally.**

Under normal operating conditions, each of the following standards will be met no less than 95% of the time measured on an annual basis.

**§ 41-22. Installations.**

A. "Standard" installations are those located less than 125 feet from the existing distribution system, including



§ 41-22  
feeder cable.

§ 41-24

B. Standard installations will be performed within seven calendar days after an order has been placed.

**§ 41-23. Service problems.**

- A. The cable operator will respond to service interruptions promptly and in no event later than 24 hours.
- B. Other service problems will be responded to within 36 hours during the normal work week.
- C. Outages, less than system-wide. Upon failure of the cable operator to remedy a loss of service attributable to the cable system within 24 hours of receipt of notification of such loss, the cable operator shall rebate 1/30 of the regular monthly charge to each subscriber so affected, for each 24 hours or fraction thereof, following the first 24 hours after receipt of notification, until service is restored, unless such restoration is prevented by strike, injunction or other cause beyond control of the cable operator. Such rebate shall be made by the cable operator only following reasonable written notification and substantiation to the cable operator by the subscriber, identifying the loss of service by channel description and date and time.
- D. Outages, systemwide.
  - (1) The cable operator shall provide an automatic credit to all subscribers when there is an outage of all basic services for a period of 24 consecutive hours or more which affects the entire service area, regardless of the cause of the outage. The credit shall equal, at a minimum, the value of receiving one day's basic service for each twenty-four-consecutive-hour period. "One day" shall be considered to be 1/30 of the regular monthly charge for each subscriber so affected.
  - (2) The cable operator shall provide an automatic credit to all subscribers of an affected premium channel when there is an outage of such premium service for a period of 24 consecutive hours or more which affects the entire service area, regardless of the cause of the outage. The credit shall equal, at a minimum, the subscriber's cost of receiving one day's cable service for each affected premium channel that for each twenty-four-consecutive-hour period. "One day" shall be considered to be 1/30 of the regular monthly value of the premium channel.

**§ 41-24. Scheduled appointments.**

- A. Appointment windows. Whenever a consumer requests an appointment for installation, repair, maintenance, or other service, and the parties have agreed that the presence of the consumer or his designee is required, the cable operator shall offer and specify a four-hour time period within which the installation, repair or maintenance appointment must be commenced.
- B. Consumer's choice of appointment windows. The cable operator shall offer the subscribing consumer a choice of specific times for a scheduled appointment. The consumer's choice of "appointment windows" shall include, at a minimum:
  - (1) Saturday mornings (8:00 a.m. until 12:00 noon);
  - (2) Mornings (8:00 a.m. until 12:00 noon) during a specific "normal business day" (Monday through Friday inclusive, except holidays);
  - (3) Afternoons during a specific "normal business day", subject to:
    - (a) A four-hour appointment window chosen by the subscriber; and
    - (b) That four-hour long appointment window will not extend past 6:00 p.m.; and
  - (4) An elongated "appointment window" which may be selected by the subscriber for "all day" on a specific date which is also a "normal business day."

- § 41-24
- § 41-30
- C. Cable operator's compliance with appointment window. The cable operator is required to adhere to the four-hour period for commencing installation, repair or maintenance appointments with the subscriber unless there are delays caused by unforeseen or unavoidable occurrences beyond the control of the cable operator.
- D. Operator's failure to comply-consumer's options. In the event that the cable operator fails to meet the four-hour period for subscriber installation, disconnection, or maintenance appointments, subject to Subsection F below, the affected consumer will be entitled to receive credit(s):
- (1) The above-referenced credit shall equal the value, at the subscriber's election, of either:
    - (a) One month's basic service for the failure by the cable operator to meet the scheduled four-hour period for commencing the installation, disconnection, repair, maintenance or other service appointment at the subscriber's home, business office or other service location, regardless of whether the appointment is subsequently rescheduled and attended; or
    - (b) The installation charge, service charge, etc., that the consumer would otherwise incur for performance of the scheduled service; and
  - (2) The subscriber will be given a credit of an additional one month's basic service for any rescheduled appointment wherein the cable operator's service and/or installation-disconnection staff fails to appear within the four-hour appointment window.
- E. Subscriber's failure to be present. A credit shall not have to be provided in the event that the subscriber was not present at the time of the scheduled and confirmed installation, service, repair, maintenance, "other installation" or other service appointment.
- F. Diligent notice. A credit shall not have to be provided if the cable operator makes a diligent attempt to notify the subscriber of a delay caused by unforeseen or unavoidable occurrences beyond the control of the cable operator or its service/installation employees, or the cable operator or its agents were unable to notify the subscriber because of the subscriber's absence or unavailability during the scheduled appointment and, in either instance, the cable operator commenced service or repairs within a newly agreed upon two-hour period.
- G. Subscriber's opportunity to elect remedies. Prior to awarding a subscriber the credit specified in Subsection D above, the cable operator must give each subscriber the opportunity to elect the remedies provided in Subsection D or to accept the credit specified in Subsection D herein. This election of remedies must be an affirmative decision on the part of the subscriber, and the cable operator must inform the subscriber of the monetary value of making either decision.
- H. Cable operator's duty to inform subscribers. The cable operator shall inform subscribers of their right to service connection, its repair or other service, within a four-hour period and their remedies for missed appointments by offering the four-hour period and the information pertaining to remedies at the time the subscriber calls for service or repair, or by notifying their subscriber by mail three times a year of the service and their remedies. Such mailed notice may be performed by inserting the appropriate information in the subscribers' monthly bills.

§ 41-25. (Reserved)

§ 41-26. (Reserved)

§ 41-27. (Reserved)

§ 41-28. (Reserved)

§ 41-29. (Reserved)

DIVISION 3  
Communications, Bills and Refunds

**§ 41-31. Communications to consumers.**

The cable operator will provide written information to subscribers in each of the following areas at the time of installation, at any future time upon request, and at least once per year thereafter:

- A. Products and services offered;
- B. Prices and service options;
- C. Installation and service policies (including details of § 41-24);
- D. Availability of parental lockout devices;
- E. Refund policies;
- F. Description of complaint procedures;
- G. Subscriber privacy rights notice;
- H. How to use the cable service, including how subscriber and subscribers can connect their videocassette recorders so as to more fully utilize the cable services subscribed to; and
- I. Information concerning the responsibility of the City of Kalamazoo, including the mailing address and phone number of the City's designee for cable matters.

- (1) The text of the printed notice shall be as follows unless otherwise authorized by the commission:

**PLEASE READ THIS**

The City of Kalamazoo through the Office of the City Cable Administrator, is responsible for monitoring the customer service, system performance, and franchise compliance of your cable company. Toward this end, the City and your cable company work continuously to monitor and improve cable TV customer service in your community.

However, at times you may encounter problems with your cable service that you have been unable to resolve with your cable company. The City Cable Administrator is available to help you with unresolved problems. If this is the case, please call the City Cable Administrator's office at \_ weekdays (an answering machine takes messages after business hours), or write to the City Cable Administrator, 241 West South Street, Kalamazoo, Michigan 49007.

However, please contact your cable company FIRST, before calling the City Cable Administrator office about your problem.

**PLEASE SAVE FOR FUTURE REFERENCE**

- (2) Such notice, in large boldface type, shall also be posted in a conspicuous place in all of the cable operator's offices within the City of Kalamazoo where customer service transactions are conducted.

**§ 41-32. Bills and billing disputes.**

- A. Bills.

- (1) Subscriber's bills from the cable operator will be clear, concise and understandable.

§ 41-32 (2) The cable operator shall annually consult with the City's designee for cable matters regarding accuracy, conciseness and sufficiency of information contained within the standard subscriber billing notice. § 41-40

(3) The City shall also review the standard subscriber billing notice for clarity and fairness of representation of information to subscribers which shall also be the subject of the annual consultations noted in Subsection A(2) above.

(4) The cable operator shall identify any service bureau or other third party which prepares billing notices.

B. Billing disputes. If a subscriber has notified the operator in writing that a bill is in dispute:

(1) Operator shall not terminate service pending resolution of the dispute;

(2) Nor shall the account be turned over or reported to a collection agency, provided that the remaining balance of the bill is current; and

(3) A bill shall not considered to be in dispute solely by reason of nonpayment by subscriber.

**§ 41-33. Refunds.**

A. Refund checks will be issued promptly, but no later than the earlier of 45 days, or the subscriber's next billing cycle following the resolution of the request; and

B. If service is terminated, a refund check will be sent no later than 45 days after the subscriber returns all of the equipment supplied by the cable operator.

**§ 41-34. Rate or channel changes.**

Subscribers will be notified a minimum of 30 days in advance of any rate or channel change, provided the change is within the control of the cable operator.

**§ 41-35. (Reserved)**

**§ 41-36. (Reserved)**

**§ 41-37. (Reserved)**

**§ 41-38. (Reserved)**

**§ 41-39. (Reserved)**

**§ 41-40. (Reserved)**

§ 41-41

ARTICLE III  
(Reserved)

§ 41-60

§ 41-41. (Reserved)

§ 41-42. (Reserved)

§ 41-43. (Reserved)

§ 41-44. (Reserved)

§ 41-45. (Reserved)

§ 41-46. (Reserved)

§ 41-47. (Reserved)

§ 41-48. (Reserved)

§ 41-49. (Reserved)

§ 41-50. (Reserved)

§ 41-51. (Reserved)

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§ 41-56. (Reserved)

§ 41-57. (Reserved)

§ 41-58. (Reserved)

§ 41-59. (Reserved)

§ 41-60. (Reserved)



§ 41-61

§ 41-80

ARTICLE IV  
(Reserved)

§ 41-61. (Reserved)

§ 41-62. (Reserved)

§ 41-63. (Reserved)

§ 41-64. (Reserved)

§ 41-65. (Reserved)

§ 41-66. (Reserved)

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§ 41-77. (Reserved)

§ 41-78. (Reserved)

§ 41-79. (Reserved)

§ 41-80. (Reserved)





ARTICLE V  
**Penalties**

**§ 41-81. Violations.**

- A. No person, individual, party, partnership, corporation, joint venture, joint stock company, consortium, trust, individual, or other entity functioning as an operator of a cable system ("cable operator") shall violate any of the mandatory provisions of this chapter;
- B. Violation of a mandatory provision of this chapter shall be a civil infraction punishable by a judgment of up to, but not exceeding, \$100; and
- C. The judgment for each such event involving any one consumer on any one day in regards to any particular section or subsection of this chapter shall not exceed \$100.

**§ 41-82. Evaluation of violations.**

- A. The violation of this chapter by a cable operator, an operator's agents, employees and/or independent contractors employed or retained by the cable operator shall be grounds for evaluating:
  - (1) A cable operator's compliance with an existing consent agreement and with applicable law; and
  - (2) The quality of a cable operator's service and whether it has been reasonable in light of community needs; and
  - (3) The technical ability of a cable operator to provide the services, facilities, and equipment as set forth in an operator's proposal for future or renewed cable services; and
  - (4) The reasonableness of an operator's proposal to meet the future cable-related community needs and interests of the residents and cable television consumers of Kalamazoo.
- B. These evaluations are proper and germane for the City to consider formally when reviewing proposal(s) for renewal of any consent agreement to provide cable services within the City of Kalamazoo.



**Chapter 42**  
**TREE ORDINANCE**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 8-31-1992 by Ord. No. 1542. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Dead trees as nuisances — See § 22-3.**

**Streets and other public grounds — See Ch. 33.**

**Parks and Recreation Advisory Board — See § 23-29 et seq.**

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**§ 42-1. Purpose and intent.**

- A. Purpose. It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees and shrubs on public places, curblawns and street rights-of-way within the City of Kalamazoo.
- B. Intent. It is the intent of the City Commission that the terms of this chapter shall be construed so as to: (1) promote the planting, maintenance, restoration, and survival of desirable trees and shrubs on public places, and street rights-of-way within the City; (2) provide protection from personal injury and property damage to individuals, corporations, and other businesses caused or threatened by the improper planting, maintenance or removal of trees and shrubs, on public places, and street rights-of-way within the City; and, (3) to plant, remove and replace trees or shrubs within curblawns, upon request, to the extent the annual budget will allow.

**§ 42-2. Applicability.**

This chapter provides complete power and authority over all trees and shrubs located within the street rights-of-way, parks, cemeteries, curblawns and other public places of the City; and to trees and shrubs located on private property that constitute a hazard or threat to the safe use by the public of any street, sidewalk or public place in the City.

**§ 42-3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**CITY TREE** — Any tree planted or growing on City-owned or maintained property.

**CURBLAWN** — The part of a street right-of-way, not covered by sidewalk or paving, lying between the sidewalk proper and the curb or outside edge of the street.

**DRIPLINE** — An imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

**LARGE TREES** — Those trees which attain a height of 45 feet or more at maturity. Examples of large trees include but are not limited to: ash, green and white; linden; maple, sugar, red and Norway; sweetgum, tulip; ginkgo and oak.

**MEDIUM TREES** — Those trees which attain a height of 30 feet to 45 feet at maturity. Examples of medium trees include but are not limited to: golden rain, hawthorn, Japanese tree lilac, Bradford pear, redspire pear, aristocratic pear, hybrid locust and Columnar Norway Maple.

**PROPERTY OWNER** — The individual or party owning such property as shown on the Kalamazoo City Assessor's records.

**PUBLIC PLACE** — Property owned by the City of Kalamazoo.

**SHRUB** — A low growing, multi-stemmed woody perennial.

**SMALL TREE** — Those trees which attain a height of less than 30 feet at maturity. Examples of small trees include

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but are not limited to: flowering crabapple, amur maple and flame maple.

**STREET TREE** — Any tree located on a street right-of-way or curblawn, but in most cases between the sidewalk and the street.

**TOPPING** — The severe cutting back of tree limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

**TREE** — A plant which can be grown with a single stem or trunk and is over 10 feet in height.

#### **§ 42-4. Tree Committee.**

A Tree Committee shall be created and membership shall include representation from the Parks and Recreation Advisory Board, the Environmental Concerns Committee, overhead and underground utility companies and the Public Services Department. The purpose of the Tree Committee is to develop guidelines, subject to City Commission approval, related to the implementation and enforcement of this chapter and recommend modifications or changes as might become necessary to the Director of Public Works.

#### **§ 42-5. Landscaping.**

In new subdivisions or when the development of commercial property occurs by private enterprise, landscaping plans shall be submitted to the Public Works Director or his/her designee who shall review the plans and may require the developer to plant trees along any of the streets, parking lots, parks, and other public places abutting lands henceforth developed and/or subdivided.

#### **§ 42-6. Tree planting, maintenance and removal.**

##### **A. Tree planting.**

- (1) **Prohibited trees.** The owner of property abutting any street may, upon obtaining prior written permission from the Public Works Department, plant trees in the curblawn and street rights-of-way after which they shall become a City tree. The following species shall not be planted in the aforementioned locations: Populus Spp., (White Poplar or Aspen); Acer Negunda, (Box Elder); Ailanthus Altissima, (Tree of Heaven); Catalpa, (Catalpa); Ulmus, (American, Winged, Slippery, Rock, Cedar, and Siberian elm); Juglans, (English Walnut, Butternut, Black Walnut); Robinia Pseudoacacia, (Black Locust); Salix Alba, (Willow); Abies, (Fir); Alnus, (Alder); Betula Spp., (Paper Birch, Yellow Birch, Sweet Birch, River Birch, and Gray Birch); Juniperus, (Common Juniper); Taxus, (Yew); Thuja, (Cedar); Sassafras Albidum, (Sassafras); Elaeagnus Angustifolia, (Russian-Olive); Maclura Pomifera, (Osage-Orange); Morus Alba, (Mulberry); Prunus Serotina, (Black Cherry); Ginkgo Biloba, (Ginkgo or Maidenhair—female sex).
- (2) **Spacing.** No trees shall be planted closer together than the following: small trees, 25 feet; medium trees, 35 feet; and large trees, 45 feet. Special landscape plantings may be excepted from this provision upon written approval by the Public Works Department.
- (3) **Utilities.** No street trees other than those species listed as small or medium trees may be planted under or within 10 lateral feet of any overhead primary electric wire.
- (4) **Distance from curb and sidewalk.** No trees may be planted any closer to any curb or sidewalk than the following distances: small trees, two feet; medium trees, three feet; and large trees, four feet.
- (5) **Exempt trees.** Trees planted prior to the enactment of this chapter are exempt from the spacing provisions of this section.

##### **B. Trees and shrub maintenance.**

- (1) **City trees.**

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- (a) All maintenance performed on trees located in public places, curblawns and street rights-of-way will be performed by the City or its agent unless an exemption is made in writing by the Director of Public Works. Pruning will be conducted according to the National Arborist Association's Pruning Standards for Shade Trees, revised 1988. Future revisions to the National Association's Pruning standards will be accepted as the current revised standard.
  - (b) The minimum clearance of any overhanging portion thereof shall be eight feet over sidewalks and 15 feet over all streets except major thoroughfares which shall have a clearance of 16 feet.
- (2) Street corner clearance and other visual obstructions.
- (a) No property owner shall maintain on their property any tree, shrub, hedge or other vegetation at a height greater than three feet above the surface of the street within a distance of 25 feet from the street right-of-way line or as otherwise determined by the City traffic engineer at an intersection corner. No person shall maintain any tree, shrub, hedge or other vegetation anywhere on his/her property which interferes with the clear view of traffic of drivers approaching an intersection.
  - (b) Failure to prune trees, shrubs, hedges or other plantings as required in Subsection B(2)(a) above may result in a written notice to comply from the Director of the Public Works Department.
  - (c) The written notice to comply shall be served by certified mail to the last known address of the property owner.
  - (d) The property owner shall have 21 days from receipt of the notice to comply. Prosecutions for violations of this section may be commenced by issuance of an appearance ticket. The Director of Public Works or his/her designee is authorized to issue and serve such appearance tickets.
  - (e) Any tree, shrub or other planting planted on private property but physically obstructing by overhang or other means the public right-of-way, public street or sidewalk or obstructing street lights, traffic signs or the vision of vehicular traffic shall be pruned by the City in accordance with this section.
- (3) Abuse or mutilation of trees. Unless specifically authorized by the Director of Public Works, or by ordinance, no person, firm, or corporation shall damage, cut, carve, transplant or remove any City tree or street tree nor attach any rope, wire, nails, advertising poster or other contrivance, nor allow any substance which is harmful to such trees to come in contact with them, nor set fire, nor permit any fire to injure such trees.
- (4) Trenching. Open trenching for new utility lines and services in the curblawn, street right-of-way, or public place shall not occur within 1/2 the crown radius of the tree and never closer than one foot of any tree. Boring will be required within those limits.
- (5) Placement of materials. No person, firm, or corporation shall deposit, place, store or maintain upon any public place, curblawn or street right-of-way for more than 15 days any stone, brick, sand, concrete, or other materials within the dripline of any tree which may impede the free passage of water, air or fertilizer to the roots of any tree, except by written permit of the Director of Public Works.
- (6) Overhead tree pruning by utility companies.
- (a) All line clearance tree trimming or other construction work requiring tree trimming to trees located in public places, curblawns or street rights-of-way by any utility shall be conducted in accordance with the standards set forth in § 42-6B. Acts of God, the loss of utilities services due to weather and like emergencies constitute an exception to this subsection.
  - (b) For nonemergency trimming of trees by a utility company, the utility shall provide written notice to the Director of Public Works at least 15 days in advance of the tree trimming. Said notice shall

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provide the exact location of the proposed trimming. Trimming shall be conducted in accordance with this chapter and the direction of the Director of Public Works.

(c) Line clearance distances shall be:

	<b>Primary (feet)</b>	<b>Secondary (feet)</b>	<b>Transmission (feet)</b>
Top trimming	5 to 7	1 to 3	6 to 8
Side trimming	4 to 6	1 to 3	10 to 14
Over trimming	6	1 to 3	None

(d) Utility companies shall provide notice to adjacent house addresses of residents prior to curblawn tree pruning activities for nonemergency trimming.

(7) Topping. No person, utility or other party may top any street tree, City tree or tree located at a public place. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this subsection at the determination of the Director of Public Works.

C. Tree removal. Only the City or its agent may remove street trees or City trees. Any other person requesting to remove street trees or City trees must obtain a permit from the Public Works Department. City trees and street trees may be removed for the following reasons only:

- (1) Where the tree is at least 90% dead;
- (2) Where the tree constitutes a public hazard;
- (3) Where the tree is diseased;
- (4) Where the trees are planted too closely together;
- (5) Where necessary for the installation of public streets, infrastructure improvements or driveways after review by the Tree Committee and the Director of Public Works; or
- (6) Where unique circumstances exist, and request is made for the removal upon the recommendation of the Tree Committee and the Director of Public Works.
- (7) Trees whose roots lift sidewalks or driveways shall not be removed unless it is not possible to remedy the problem by relocating the sidewalk or by cutting and removing roots. Contractors shall provide 15 days notice to the Director of Public Works before commencing such operation. Street trees may not be removed for the installation of new driveways without a permit from the Department of Public Works.
- (8) Trees shall not be removed for the sole reason that the tree roots are clogging the sewers.

**§ 42-7. Permit.**

A. Unless otherwise permitted by this chapter, no person, firm, or corporation may perform any of the following acts on curblawns, street rights-of-way or public places without first obtaining a permit from the Department of Public Works.

- (1) Plant trees or shrubs.
- (2) Remove trees or shrubs.
- (3) Trim trees or shrubs.



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(4) Spray trees or shrubs.

(5) Tree surgery.

- B. The person, firm, or corporation receiving such permit shall abide by the specifications and standards of practice in this chapter, and shall as a condition of such permit agree to hold the City harmless from any and all liability which might result from the work or activity authorized. Before any permit shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts as prescribed by the City for bodily injury and property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such activities as herein described.

**§ 42-8. Enforcement authority.**

- A. The responsibility for enforcement of this chapter shall be vested in the Director of Public Works or his/her designee. Prosecutions for violations of this chapter may be commenced by issuance of an appearance ticket. The Director of Public Works or his/her designee is authorized to issue and serve such appearance tickets. A party found to be in violation of this chapter may be subject to fines and costs up to \$500 and/or 90 days in jail.
- B. No person, firm, or corporation shall hinder, prevent, delay or interfere with the Director of Public Works, City employees or agents of the City engaged in the implementation or enforcement of this chapter. However, nothing herein shall prohibit an interested party from pursuing any legal remedies to which they might have a right.

**§ 42-9. Appealability.**

With the exception of appearance tickets, any enforcement or permitting requirement of this chapter may be appealed in writing to the City Manager's Office.



**Chapter 43**

**CABLE TELEVISION RATE REGULATIONS**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 2-7-1994 by Ord. No. 1566. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Cable television — See Ch. 41.**

**Telecommunications — See Ch. 45.**

**Cable communications — See Ch. 44.**

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**§ 43-1. Title and purpose.**

- A. Title. This chapter shall be known and may be cited as the "Cable Television Basic Service and Associated Equipment Rate Regulation Ordinance."
- B. Purpose. The purpose of this chapter is to regulate rates of cable television basic service and associated equipment through adoption of regulations consistent with the provisions of the Communications Act of 1934, as amended, including the Cable Television Consumer Protection and Competition Act of 1992, Public Law 102-385 and the FCC's rules and regulations promulgated pursuant thereto; and to provide procedures applicable to rate regulation which offer a reasonable opportunity for comment by interested parties.

**§ 43-2. Definitions.**

- A. The following words and terms used in this chapter are defined as follows:

**ACT** — The Communications Act of 1934, as amended, specifically including the amendments contained in the Cable Television Consumer Protection and Competition Act of 1992, Public Law 102-385.

**ASSOCIATED EQUIPMENT** — Equipment used by a subscriber to receive basic service cable programming regardless of whether such equipment is also used to receive other tiers of regulated programming service and/or unregulated tiers of programming service(s). Associated equipment includes, but is not limited to:

- (1) Converter boxes;
- (2) Remote control units;
- (3) Connections for additional television receivers; and
- (4) Other cable home wiring.

**BASIC SERVICE** — The level or tier of cable television programming which includes, at a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system), a public, educational and/or governmental programming required by the franchise authority to be carried as a basic service, and any additional video programming signals added to the basic service by the regulated cable operator.

**CITY** — The City of Kalamazoo.

**EXISTING RATES** — The rates for basic service and associated equipment charged by a regulated cable operator on the initial date of regulation by the franchising authority.

**FCC** — The United States Federal Communications Commission.

**FCC RULES AND/OR REGULATIONS** — Any and all rules and/or regulations which the FCC promulgates and/or adopts pursuant to the Act.

**FRANCHISING AUTHORITY** — The City.

§ 43-2 ORDINANCE, or THIS CHAPTER — This Cable Television Basic Service Regulation Ordinance. § 43-7

RATE INCREASE — An increase in rates for basic service and/or associated equipment including among others increases in rates that are the result of reductions in programming provided under the basic service.

REGULATED CABLE OPERATOR — Any operator of a cable television system that is subject to regulation by the City.

**§ 43-3. Undefined words or terms.**

Any word or terms which is not specifically defined in § 43-2 of this chapter and Chapter 41 of the City Code of Ordinances shall be given its normal, ordinary meaning. Provided that any word which is used in this chapter but which is not specifically defined in § 43-2 of this chapter or Chapter 41, § 41-2 but which is defined in FCC rules or regulations shall have the meaning given to such word or term in the FCC rules and/or regulations

**§ 43-4. Rate regulation — Adoption of FCC rules and/or regulations.**

- A. The City, by this reference, hereby adopts all rules and regulations regarding basic service rates and associated equipment rates which the FCC has or will promulgate pursuant to the Act, and makes said rules and regulations part of this chapter.
- B. The City has submitted an application to the FCC for certification as a cable franchising authority pursuant to the Act. Upon certification as a cable franchising authority, the City shall regulate the basic service rates and associated equipment rates in compliance with the Act, the FCC rules and/or regulations and this chapter.
- C. After the FCC's acceptance for filing of the City's certification, if no objection thereto has been filed within the time permitted for filing objections, the franchising authority shall send written notice of its certification and notice that it has adopted the required regulations, return receipt requested, to all regulated cable operators within the City.

**§ 43-5. Designation of cable franchising authority.**

- A. Effective upon certification of the City as a cable franchising authority, the City Commission is hereby designated as the cable franchising authority for the City of Kalamazoo and shall execute the powers, duties and responsibilities given to the cable franchising authority in this chapter, the Act and the FCC rules and/or regulations.

**§ 43-6. Regulated cable operators.**

- A. A regulated cable operator shall comply with all duties and obligations imposed upon the regulated cable operator by the Act, FCC rules and/or regulations, this chapter, and all provisions of Chapter 41 which are not inconsistent with the Act.
- B. A regulated cable operator has the burden of proving that its submitted existing rates or a proposed rate increase complies with the Act and FCC rules and regulations.

**§ 43-7. Submission of existing rate schedule.**

- A. Within 30 days of receiving the notice identified in § 43-4C of this chapter, a regulated cable operator shall submit an original of a written schedule of the regulated cable operator's existing rates to the franchising authority. Said schedule shall be addressed in care of the City Clerk. A copy of said schedule shall also be sent to the Cable Administrator.
- B. The schedule(s) identified in § 43-7A of this chapter shall contain a detailed statement explaining whether the regulated cable operator's existing rates comply with existing FCC rules and/or regulations for basic service rates and associated equipment rates.

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C. Upon receipt of the existing basic service rate and associated equipment rate schedule(s), the City Clerk shall provide the necessary schedules to the franchising authority within seven days. § 43-11

**§ 43-8. Franchising authority existing rate review.**

- A. Unless the time for conducting a public hearing and/or receiving information and comments from interested parties and entering a decision is extended by the issuance of a tolling order by the franchising authority pursuant to § 43-11 of this chapter, the franchising authority shall hold a public hearing on the existing rate schedule(s) or provide other reasonable means to obtain information and comments from interested parties within 30 days of the date the franchising authority received the schedule(s). If the time for conducting the public hearing and/or receiving information and comments from interested parties is extended pursuant to § 43-11 of this chapter, a decision shall be rendered before the extended time period expires.
- B. The existing rates identified in the submitted schedule(s) of rates shall go into effect 30 days from the date of the Franchising Authorities' receipt of the schedule(s) unless the franchising authority disapproves the rate or extends the time period for conducting the review of existing rates pursuant to § 43-11 of this chapter.
- C. If the franchising authority fails to act on the submitted existing rates by the end of the respective tolling period then the rates will remain in effect. If the franchising authority subsequently disapproves any portion of said rates, refunds may not be ordered unless a brief written order was issued by the franchising authority before the end of the respective tolling period directing the regulated cable operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of said rates.

**§ 43-9. Regulation of rate increases.**

- A. A regulated cable operator cannot institute a subscriber rate increase unless the regulated cable operator complies with the Act, FCC rules and/or regulations and this chapter.
- B. A regulated cable operator which proposes a rate increase must submit an original of the proposed rate increase(s) request to the franchising authority, by filing with the City Clerk and must also submit one copy to the Cable Administrator.

**§ 43-10. Franchising authority rate increase review.**

- A. Unless the time for conducting the public hearing and/or obtaining comments from interested persons and entering a decision is extended by the issuance of a tolling order by the franchising authority pursuant to § 43-11 of this chapter, the franchising authority shall either conduct a public hearing and/or provide reasonable opportunity for comment by interested parties and render a decision upon the regulated cable operator's proposed rate increase request within 30 days of receipt of a proposed rate increase request. If the time for holding the public hearing and/or obtaining comments from interested parties is extended pursuant to § 43-11 of this chapter, the public hearing shall be held and/or opportunity for comment by interested parties provided and a decision rendered, before the extended time period expires.
- B. A proposed rate increase requested by a regulated cable operator will become effective after 30 days have elapsed from the date the franchising authority received the proposed rate increase request unless the franchising authority disapproves the proposed rate increase or extends the time period for conducting the review of the proposed rate increase pursuant to § 43-11 of this chapter.
- C. If the franchising authority allows rate increases to go into effect at the end of the respective tolling period through inaction and then subsequently disapproves any portion of such rates, then refunds may not be ordered unless a brief written order was issued by the franchising authority before the end of the respective tolling period, directing the regulated cable operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of said rates.

**§ 43-11. Tolling order.**

- A. If the franchising authority is unable to determine, based upon the material submitted by the regulated cable operator that the existing rates or proposed rate increase(s) are reasonable or if the regulated cable operator has submitted a cost of service showing, then the franchise authority may toll the thirty-day deadline for an additional 90 days in cases not involving cost of service showings or for an additional 150 days in cases involving cost of service showings.
- B. In order for the franchising authority to toll the thirty-day period pursuant to § 43-11 of this chapter, the franchising authority must issue an order explaining that additional time and/or information is necessary in order for the franchising authority to act upon the existing rates or the proposed rate increases. Said order must be in writing, by resolution adopted within said thirty-day period.
- C. The franchising authority shall send a copy of the tolling order to the regulated cable operator by first class mail within seven days after the date of the decision.

**§ 43-12. Public hearing.**

- A. The franchising authority shall not be required to conduct a public hearing if the franchising authority provides other reasonable opportunity for interested parties to comment on proposed rates. The franchising authority shall conduct a public hearing or use reasonable means to obtain or provide other reasonable opportunity for interested parties to comment on the proposed rates. If a public hearing on the review of a regulated cable operator's existing rates or on review of a proposed rate increase is conducted, the franchising authority shall provide the regulated cable operator and all other interested persons with the opportunity to comment on the rates either in person, in writing, or by agent.
- B. The franchising authority may conduct as many public hearings as necessary to carry out the provisions of the Act, FCC rules and regulations and this chapter. The franchising authority may delegate the authority to conduct public hearings and/or to obtain the views of interested parties in accordance with FCC regulations to any person approved by the City Commission.
- C. If the franchising authority deems it necessary, either prior to or following a public hearing, the franchising authority may direct the preparation of a written report for the franchising authority. This report may contain a recommendation to the franchising authority for its decision on the review of the existing rate schedule(s) or proposed rate request submitted by a regulated cable operator. This recommendation should also summarize and be based upon the schedule or request submitted by the regulated cable operator; comments or objections to the schedule or request which the franchising authority received from the regulated cable operator; any additional information received from the regulated cable operator; information which the franchising authority received from a consultant, its staff or its attorney; and other information which it deems appropriate.
- D. The franchising authority shall send, by first class mail to the regulated cable operator, a copy of any report prior to the franchising authority's consideration of the report at a public hearing.

**§ 43-13. Public hearing notice and/or notice of opportunity for comment by interested parties.**

- A. The franchising authority shall send a written notice of the date, time and location of any public hearing to the regulated cable operator which submitted the existing rates or proposed rate increase for review no less than seven days before the date of a public hearing. Said notice is to be sent to the regulated cable operator by first class mail.
- B. The franchising authority shall cause to be published in a qualified newspaper of general circulation within the City, a notice of a public hearing on the existing rate schedule(s) or proposed rate increase request no less than seven days before the public hearing. Said notice shall:



- § 43-13 § 43-16
- (1) State that a regulated cable operator has submitted the existing rate schedule(s) or proposed rate increase request to the franchising authority for review pursuant to this chapter;
  - (2) State the location and times at which the public may examine the submitted schedule(s) of existing rates or proposed rate increase request.
  - (3) State the date, time and location at which the franchising authority will conduct the public hearing.
  - (4) State that all interested persons shall have an opportunity to comment on the rates at a public hearing, and/or to submit written comments on or before the date of a public hearing to the franchising authority.
  - (5) If the franchising authority or its designated representative, does not conduct a public hearing, it shall provide reasonable opportunity for interested parties to present their views.

**§ 43-14. Franchising authority decision on review of existing rates or proposed rates.**

The franchising authority shall issue a written order supported by its reasons, by resolution which:

- A. Approves the regulated cable operator's existing rate or proposed rate increase; or
- B. Disapproves the regulated cable operator's existing rate or proposed rate increase; or
- C. Approves in part, and disapproves, in part, the regulated cable operator's existing rate or proposed rate increase; and/or
- D. Orders a rate reduction; and/or
- E. Prescribes a reasonable rate; and/or
- F. Determines that a refund hearing should be held pursuant to § 43-15 of this chapter; and/or
- G. Orders any further appropriate relief permitted by this chapter, the Act or the FCC rules and/or regulations.

**§ 43-15. Refund hearing.**

- A. If the franchising authority determines that the subscribers to a regulated cable operator may be entitled to a refund pursuant to FCC rules and regulations, the franchising authority shall include a notice in its decision issued pursuant to § 43-16, that the franchising authority may hold a public hearing to consider ordering the regulated cable operator to make a refund to subscribers and/or provide other reasonable opportunity for interested parties to present their comments.
- B. The franchising authority shall then conduct a public hearing and/or provide reasonable opportunity for comment by interested parties to determine whether to order a refund to subscribers and the amount of the refund.
- C. The franchising authority shall send, by first class mail, to the regulated cable operator, written notice of the date, time and location of a public hearing and/or notice of opportunity for interested parties to comment. Said notice must be sent no less than seven days before any public hearing.

**§ 43-16. Refund hearing — Decision.**

- A. At any refund hearing the regulated cable operator may appear in person, by agent or in writing to comment upon whether the franchising authority should order a refund.
- B. Members of the public also may comment at the refund hearing, in person, by agent or in writing.
- C. At the conclusion of the refund hearing and/or after the period to receive the comments from interested parties

§ 43-16 has expired, the franchising authority shall issue a written order, by resolution:

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- (1) Denying a refund; or
- (2) Ordering the regulated cable operator to implement a refund.

**§ 43-17. Notice of franchising authority decisions.**

- A. All decisions of the franchising authority issued pursuant to §§ 43-14 and/or 43-16 of this chapter shall be:
  - (1) In writing, and
  - (2) Effective as of the date the franchising authority makes the decision.
- B. Notice of all decisions of the franchising authority issued pursuant to §§ 43-14 and/or 43-16 of this chapter shall be published in a qualified newspaper of general circulation in the City no less than 15 days after the effective date of the decision. Said notice shall include:
  - (1) A summary of the franchising authority's written decision;
  - (2) A statement that copies of the franchising authority's decision are available for public inspection;
  - (3) A statement as to the location at which, and time during which, the public may inspect copies of the franchising authority's decision.
- C. The franchising authority shall send, by first class mail, a copy of the franchising authority's decision to the regulated cable operator.

**§ 43-18. Proprietary information and production of documents.**

The franchising authority may require the regulated cable operator to produce documents needed to make rate decisions, as well as all information provided to the FCC. Requests that proprietary information be held confidential shall be supported by the regulated cable operator and shall be handled in a manner analogous to the procedures and criteria set forth in the FCC's rules.

**§ 43-19. Additional powers.**

The City shall possess all powers conferred by the Act, the FCC rules and/or regulations, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the Act, the FCC rules and/or regulations and this chapter shall be in addition to powers conferred by law or otherwise. The City may take any action not prohibited by the Act and the FCC rules to protect the public interest in connection with basic cable service rate regulation.

**§ 43-20. Failure to comply — Remedies.**

The City may impose any and all legal and equitable remedies authorized by law against the regulated cable operator, including all remedies provided under a regulated cable operator's consent agreement with the City or side agreement with the City for failure to comply with the Act, the FCC rules and/or regulations, any orders or determinations of the City pursuant to this chapter, any requirements of this chapter, or any rules or regulations promulgated by law. The regulated cable operator's failure to comply with the Act, the FCC rules and/or regulations, any orders or determinations of the City pursuant to this chapter or requirements of this chapter or any rules and regulations promulgated pursuant to the Act shall be sufficient grounds for sanctions, subject to applicable law, including revocation or denial of renewal of a regulated cable operator's consent agreement.

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**§ 43-21. Severability.**

The provisions of this chapter are hereby declared to be separable and if any clause, sentence, word, section, or provision is declared void or unenforceable for any reason, by any court of competent jurisdiction, it shall not affect any portion of the chapter other than said part or portion thereof.

**§ 43-22. Repeal of conflicting ordinances.**

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



**KALAMAZOO CABLE COMMUNICATIONS REGULATORY ORDINANCE**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 3-29-1999 by Ord. No. 1671. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Cable television — See Ch. 41.**

**Telecommunications — See Ch. 45.**

**Cable television rate regulations — See Ch. 43.**

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**§ 44-1. Title.**

This chapter shall be known and may be cited as "Kalamazoo Cable Communications Regulatory Ordinance," and shall become a part of the ordinances of the City.

**§ 44-2. Definitions.**

The following words and phrases used in this chapter are defined as follows:

**AGREEMENT** — A cable communications consent agreement.

**AGREEMENT FEE** — The fee payable in exchange for the rights granted pursuant to this chapter and the agreement.

**CABLE ACT** — The Communications Act of 1934, Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996 as they may be amended or succeeded.

**CABLE SERVICE** — The meaning set forth in the Cable Act and Federal Communication Commission (FCC) regulations.

**CABLE SYSTEM or SYSTEM** — The meaning set forth in the Cable Act and FCC regulations for cable television system.

**CHANNEL** — A frequency band, which is capable of carrying either a video signal, or a number of audio, digital or other nonvideo signals or some combination of such signals.

**CITY** — As it relates to final decisions to be made regarding the granting, transferring, forfeiting, or revoking of a consent agreement or as to the purchasing or acquiring of a cable system or as to those acts or decisions which federal law requires to be taken by the franchise authority, shall mean, unless otherwise indicated, the Kalamazoo City Commission (Commission).

**DAYS** — Calendar days unless otherwise specified.

**GRANTEE** — The party granted a cable communications consent agreement by the City, and shall include the lawful successor, transferee or assignee of such grantee.

**PERSON** — Any individual, partnership, association, organization, corporation, or limited liability company or any lawful successor or transferee of such an entity.

**PUBLIC RIGHTS-OF-WAY OR STREETS** — The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, waterways, easements or other public right-of-way now or hereafter existing in the City.

**RESIDENT** — Any person residing in the City.

**SALE** — Any sale, exchange, barter or conveyance of any kind.

**STATE** — The State of Michigan.

**SUBSCRIBER** — Any person who or which elects to subscribe to, for any purpose, a service provided by the

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grantee by means of or in connection with a cable system.

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**SYSTEM FACILITIES** — The cable system constructed for use within the City, including without limitation, the headend (and distribution lines to the headend) even if located outside of the City, antenna, cables, wires, lines, towers, amplifiers, converters, equipment or facilities located within the corporate limits of the City designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable, fiber optics, microwave or other means, audio, radio, television and electronic signals to and from subscribers in the City, and any other equipment or facilities located within the corporate limits of the City intended for the use of the cable system.

**USER** — A person utilizing channel or equipment and facilities for purpose of producing and/or transmission of material, as contrasted with receipt thereof in a subscriber capacity.

**§ 44-3. Grant.**

- A. Grant. Subject to the terms and conditions set forth herein, the City may grant revocable and nonexclusive agreements to construct and operate cable systems in, under, over, along, across or upon the streets within the City of Kalamazoo for the purpose of providing cable services. In exercising rights pursuant hereto, grantee shall not endanger or interfere with the lives of persons, interfere with any installations of the City, any public utility serving the City or any other person permitted to use the streets nor unnecessarily hinder or obstruct the free use of the streets. The grant of one agreement does not establish priority for use over the other present or future permit or agreement holders or the City's own use of the streets. The City shall at all times control the distribution of space in, over, under or across all streets occupied by the cable services. All rights granted for the construction and operation of the cable services shall be subject to the continuing right of the City to require such reconstruction, relocation, change or discontinuance, of the appliances used by the cable services in the streets of the City, as shall in the opinion of the City be necessary in the public interest.
- B. Noncable services. All rights granted herein to provide cable service shall not be construed to include telephone or other noncable services (other than internet services, if provided for in the agreement).
- C. Agreement binding. All provisions of this chapter as amended, and any agreement granted hereto shall be binding upon the grantee, its successors, lessees or assignees.
- D. Privileges must be specific. No privilege or exemption shall be inferred from the granting of any agreement unless it is specifically prescribed.

**§ 44-4. Agreement required.**

No cable system shall be allowed to occupy or use the public rights-of-way of the City or be allowed to operate within the City without an agreement.

**§ 44-5. Use of public streets.**

For the purpose of operating and maintaining a cable system in the City, the grantee may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the streets of the City its system facilities and other property and equipment as are necessary to the operation of the cable system, provided that grantee complies with all design, construction, safety, and performance provisions contained in this chapter, the agreement, and other generally applicable local ordinances. The grantee shall also obtain all required pole attachment agreements for use of any utility poles or other utility facilities required in connection with the provision of services. No reference herein, or in any agreement, to the "streets" shall be deemed to be a guaranty by the City that its title to any property is sufficient to permit its use for such purpose, and the grantee shall, by its use of such terms, be deemed to gain only such rights to use property in the City as the City may have the undisputed right and power to give.



**§ 44-6. Term of agreement.**

The term of the agreement shall commence upon execution of the agreement by the City and the grantee and shall continue for a period specified in the agreement, unless sooner terminated as provided herein. As it relates to public rights-of-way and City-owned property, the grantee shall have no property right upon the expiration of the agreement term.

**§ 44-7. Agreement nonexclusive.**

An agreement granted pursuant to this chapter shall be nonexclusive and shall not affect the right of the City to grant to any other person a right to occupy or use the streets, or portions thereof, for the construction and operation of a cable system within the City or the right of the City to permit the use of the streets or public grounds of the City for any purpose whatever. By accepting an agreement, the grantee thereby acknowledges the City's right to make such grants and permit such uses. Additional agreements, taken as a whole, shall be neither more favorable nor less burdensome than agreements previously granted. No privilege or power of eminent domain is bestowed on grantee by the grant of an agreement.

**§ 44-8. Right of condemnation reserved.**

Nothing in this chapter or an agreement shall limit any right the City may have to lawfully acquire by eminent domain or otherwise any property of grantee.

**§ 44-9. City's right to perform public works.**

Nothing in this chapter or an agreement shall prevent the City or any governmental authority from performing or carrying on, directly or indirectly, any public works or public improvements. Should the cable system in any way interfere with the construction, maintenance or repair of such public works or public improvements, the grantee shall, at its own cost and expense, protect or relocate its cable system, or part thereof, as reasonably directed by the City or any governmental authority (so long as other similarly-situated users of rights-of-way are treated in a similar fashion).

**§ 44-10. Emergency removal of plant.**

If, in case of fire or other disaster, it becomes necessary in the reasonable judgment of the City to cut or move any portion of the cable facilities, the City shall have the right to do so at the sole cost and expense of grantee. The City shall first endeavor to provide notice to grantee and request that grantee, conduct the necessary work, if possible. The grantee shall bear all costs of reinstallation, repair, and other costs resulting from or arising out of the emergency cutting or removal of the cable system.

**§ 44-11. Removal or abandonment.**

Upon termination of the agreement by passage of time or otherwise, and unless grantee transfers the cable system to a subsequent grantee approved by the City, grantee shall remove its supporting structures, poles, transmission and distribution systems, and all other appurtenances from the public rights-of-way and shall restore any property, public or private, to its original condition prior to the installation, erection, or construction of the cable system. Restoration of City property shall be in accordance with the directions and specifications of the City and all applicable law. Said removal and restoration shall be at the grantee's expense. If such removal and restoration is not completed within 12 months after the notice by the City, delivered in writing to grantee, all of the grantee's property remaining in the affected public rights-of-way shall, at the option of the City, be deemed abandoned and shall, at the option of the City, become the property of the City. In the event the grantee fails or refuses to remove its system or satisfactorily restore all areas, the City may perform such work and collect the cost thereof from the grantee. No surety on any bond shall be discharged until the City has certified to the grantee in writing that the system has been dismantled, removed, and all other property restored to the satisfaction of the City. This section (requiring removal or abandonment) shall not apply if grantee is lawfully no longer a cable system operator and if:

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(i) the plant is in continuous use; (ii) removal and abandonment is addressed by other laws, regulation or otherwise, and (iii) the grantee has received all lawfully required local, state or federal authority to so operate.

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**§ 44-12. Transfer of ownership or control.**

- A. Transfer of agreement. An agreement, in whole or in part, shall not be assigned, transferred, leased, sold, or disposed of in any manner, nor shall title to the cable system, legal or equitable, pass to or vest in any other person without the prior written consent of the City.
- B. Transfer of ownership. The grantee shall not sell, transfer, or dispose of 25% or more, at any one time, of the ownership or control of grantee, or 40% or more cumulatively over the term of the agreement of such interest to another person, or group of persons acting in concert, without first obtaining the written consent of the City. Grantee need not, however, obtain said consent from the City when the sale, transfer or disposition is to a person which is then under common control with the grantee, provided that prior to such sale, disposition or transfer the grantee provides to the City verifiable information establishing that such other person has the financial, legal, and technical ability to fully perform all obligations of the agreement.
- C. Transfer of control. No change, directly or indirectly, in the control of the grantee or of any person holding a controlling interest in grantee shall take place without the prior written consent of the City.
- D. City approval. For the purpose of determining whether it shall consent to such transfer the City may inquire into the legal, financial, and technical qualifications of the prospective transferee or controlling party, as well as its ability to comply with the agreement and applicable City ordinances. The grantee shall provide the City with all reasonably required information, provided the City serves grantee with written notice of the required information within 60 days of receiving grantee's request for transfer on notice of change in control (unless a shorter time is established by federal law, in which case said shorter time shall apply). The City reserves the right to impose reasonable conditions on the transferee as a condition of the transfer to ensure that the transferee is able to meet existing ordinances. Every transfer of ownership or control shall make the agreement subject to cancellation unless and until the City issues its written consent.
- E. No waiver of City property rights. The consent of the City to a transfer of the grantee shall not constitute a waiver or release of the rights of the City in and any property owned by the City or to public rights-of-way, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this chapter and the agreement.
- F. Signatory requirement. Any approval by the City of transfer of ownership or control shall be contingent upon the prospective party becoming a signatory to the agreement.
- G. Notification of sale. In the event the grantee places its system for public sale, grantee, or its designee, shall notify the City, at the same time it notifies other prospective purchasers, of that fact. The grantee shall also advise the City of the proposed terms and conditions of such a sale, to the extent they have been made public, so long as the City can commit to grantee that such information shall be kept as confidential as grantee requires other prospective purchasers.
- H. Time frame for City review. The City shall act upon any transfer request within a reasonable time, but in no event more than allowed by federal law.
- I. Grantee for the purpose of Subsection C immediately above (regarding transfers of control), "grantee" shall be deemed to include not only the named grantee but also its subsidiaries, parents or affiliated companies, associations or organizations as well as all persons having any title or interest in the system.

**§ 44-13. Assumption of ownership or control.**

Any financial institution having a pledge of an agreement granted pursuant to this chapter or of the assets of a cable system for the advancement of money for the construction and/or operation of the cable system may notify the

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City that it will take control and operate the cable television system. If the financial institution takes possession of the cable system the City shall take no action to effect a termination of this agreement without first giving to said institution written notice thereof and a period of six months thereafter (unless otherwise provided herein below) to allow the financial institution or its agent(s) to continue operating as the grantee under this agreement and to request the City, and for the City to determine whether, to consent to the assignment of the grantee's rights, title, interest and obligations under this agreement to a qualified operator. The financial institution shall be entitled to such possession and other rights granted under this paragraph until such time that the City determines whether to consent to such assignment (the "extended time"). If the City finds that such transfer, after considering the factors set forth in the section above regarding transfer of ownership or control, is acceptable to the City, the City will consent to the transfer and assign the rights and obligations of such agreement. During the six month period or extended time, the financial institution shall enjoy all the rights, benefits and privileges of the grantee under this agreement, and the City shall not disturb such possession by the financial institution, provided the financial institution complies in all respects with the terms and provisions of this agreement and the ordinance. The various rights granted to the financial institution under this subsection are contingent upon the lender's continuous compliance with the terms and provisions of this agreement and the ordinance during the entire aforementioned six month period or extended time, if applicable.

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**§ 44-14. Right to purchase.**

In the event the grantee (a) forfeits or surrenders, or the City terminates the agreement for cause, pursuant to provisions of this chapter and the agreement, or (b) the agreement is lawfully not renewed at the normal expiration of the agreement term, the City shall have the right, directly or as an intermediary, to purchase the cable system or effect the ownership of the system to another person. Any such acquisition or transfer shall be in full accordance with the Federal Cable Act.

**§ 44-15. Agreement renewal.**

An agreement, once granted, shall be subject to renewal or nonrenewal in accordance with applicable federal law.

**§ 44-16. Agreement fees.**

- A. Fee. The grantee of any agreement hereunder shall pay to the City an agreement fee in an amount as designated in the agreement, which sum shall be 5% of the gross annual receipts, or in a greater amount if allowed by federal law and approved by the City Commission. The obligation to pay such fees shall commence as of the effective date of the agreement. Once every 12 months, the City shall be furnished by the grantee a statement of said payments certified by an officer of grantee, reflecting the total amounts of annual gross revenues and the above charges and computations for the period covered by the payment.
- B. Agreement fee in addition to other tax or payments. Payment of the agreement fee made by grantee to the City shall not be considered in the nature of a tax, but shall be in addition to any and all taxes which are now or may be required hereafter to be paid by any federal, state, or local law.
- C. Acceptance by the City. No acceptance of any payment by the City shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as an agreement fee under this chapter or for the performance of any other obligation of the grantee.
- D. Failure to make required payment. In the event that any agreement payment or recomputed amount is not paid on or before the date it is due, grantee shall pay as additional compensation an interest charge, computed from such due date, equal to the commercial prime interest rate of the City's primary depository bank during the period that such unpaid amount is owed.
- E. Payments to be made quarterly. The agreement fee and any other cost or damages assessed shall be payable quarterly to the City. The grantee shall file a complete and accurate verified statement of all gross revenue within the City during the period for which said quarterly payment is made, and said payment shall be made

§ 44-16 to the City not later than 45 days after the expiration of each calendar quarter. Quarterly computation dates are the last day in the months of March, June, September and December. § 44-17

F. The City's right to inspection. The City shall have the right to inspect the grantee's income records and the right to audit and to recompute any amounts determined to be payable under this chapter. Audits shall be at the expense of the grantee if such audit determines that the grantee has underpaid the agreement fees by 5% or more. Any additional amount due to the City as a result of the audit shall be paid within 30 days following written notice to the grantee by the City which notice shall include a copy of the audit report.

**§ 44-17. Forfeiture or revocation.**

A. Grounds for revocation. Subject to the limitations and procedures set forth below, the City reserves the right to revoke any agreement granted hereunder and rescind all rights and privileges associated with the agreement in each of the following circumstances, each of which shall represent a default and breach under the ordinance and the agreement:

- (1) The grantee shall be in default in the performance of any of the material obligations under this chapter, the agreement, or under such documents, contracts and other terms and provisions entered into by and between the City and the grantee.
- (2) The grantee violates any orders or rulings of any regulatory body having jurisdiction over the grantee relative to this chapter or the agreement, unless grantee has initiated a timely challenge to such order or ruling with an appropriate tribunal.
- (3) The grantee attempts to evade any of the provisions of this chapter or the agreement or practices any fraud or deceit upon the City or cable subscribers.
- (4) The grantee's initial or rebuild construction schedule is delayed later than the schedule contained in the agreement or beyond any extended date set by the City.
- (5) The grantee becomes insolvent or is adjudged bankrupt.
- (6) The grantee fails to restore service to substantially all of the system after 96 consecutive hours of interrupted service, except when approval of such interruption is obtained from the City.
- (7) The grantee materially misrepresents facts in the application for or negotiation of the agreement or any extension or renewal thereof.
- (8) The grantee ceases to provide cable services over the cable system for any reason within the control of the grantee.

B. Effect of circumstances beyond control of grantee. The grantee shall not be declared at fault or be subject to any sanction under any provision of this chapter in any case, in which performance of any such provision is prevented by reasons beyond the grantee's control (e.g. riots, floods, acts of nature, strikes) so long as the grantee performs as soon thereafter as reasonably possible.

C. Effect of pending litigation. Pending litigation or any appeal to any regulatory body or court having jurisdiction over the grantee shall not excuse the grantee from the performance of its obligations under this chapter or the agreement unless there is a court or regulatory body order to the contrary.

D. Procedure prior to revocation.

- (1) The City shall make written demand upon the grantee that it cure its failure, refusal or neglect. If the failure, refusal or neglect of the grantee continues for a period of 30 days after said demand, or longer in cases where the City reasonably determines that compliance or correction requires a longer cure period, the City may place a request for termination of the agreement upon a City Commission meeting

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agenda. The City shall cause to be served upon such grantee at least seven days prior to the date of such Commission meeting, a written notice of this intent to request such termination. Notice of the City's intent and the time and place of the meeting shall be published by the City at least once, seven days before such meeting in a newspaper of general circulation within the City.

- (2) At said meeting, the Commission shall receive testimony or other evidence from any interested person, including the grantee, and shall thereafter determine, in its discretion, whether any failure, refusal or neglect by the grantee has occurred which warrants revocation of the agreement.
  - (3) If the Commission determines such a failure, refusal or neglect has occurred but that it was with just cause, as defined by the City, the Commission may direct the grantee to comply within such time and manner and upon such terms and conditions as the Commission deems reasonable.
  - (4) If the Commission determines such failure, refusal, or neglect by the grantee was without just cause, the Commission may, by resolution, declare that the agreement of the grantee shall be terminated and bond forfeited unless there be compliance by the grantee within a specified number of days, not to exceed 60.
- E. Disposition of facilities. In the event an agreement is revoked or otherwise terminated, the City may purchase the system under the procedures set forth above or order the removal of the system facilities, which removal shall be consistent with the removal requirements set forth herein.

**§ 44-18. Regulatory authority.**

- A. On-going regulation. The City shall exercise appropriate regulatory authority under the provisions of this chapter and applicable law. The City Manager or his designee shall provide day-to-day administration and enforcement of the provisions of this chapter and any agreement granted hereunder.
- B. Change in law or regulation. In the event that any actions of the state or federal government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduces the power or authority of the City under this chapter or the agreement, or if in compliance with any local, state, or federal law or regulation, the grantee finds conflict with the terms of this chapter the agreement, or any law or regulation of the City, then as soon as possible following knowledge thereof, the grantee shall notify the City of the reduction or the point of conflict. The City may then notify the grantee that it wishes to negotiate those provisions which are affected in any way by such reduction or conflict. Thereafter, the grantee shall negotiate in good faith with the City in the development of alternate provisions which shall fairly restore the City to the maximum level of authority and power permitted by this chapter or the agreement. The City shall have the right to modify any of the provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter and the agreement subject to applicable state and federal law.
- C. Authority. The City reserves the right to exercise the maximum plenary authority, as may at any time be lawfully permissible under state or federal law, to regulate the cable system, the agreement and the grantee. Should applicable legislative, judicial or regulatory authorities at any time permit regulation not presently permitted to the City, the City may, without the approval of the grantee, engage in any such additional regulation as may then be permissible, whether or not contemplated by this chapter or the agreement.
- D. Right of inspection of records. Subject to appropriate protection of confidential material, the City shall have the right to inspect all books, records, reports, maps, plans, financial statements, and other like materials of the grantee which relate to the operation of this chapter, the agreement and applicable law and regulation at any time during normal business hours.
- E. Right of inspection of cable facilities and property. At all reasonable times, and after reasonable notice, the City shall have the right to inspect all cable facilities, and property situated within the City (and, as it relates to headends or distribution lines, without the City) and installation work performed in the public rights-of-way.

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- F. Right to test. Unless prohibited by law or modified by the agreement, and after providing grantee with reasonable notice, the City may make such tests of grantee's cable system as are reasonably necessary to ensure compliance with this chapter and the agreement. Such tests shall be performed in such a fashion as to minimize disruption within grantee's cable system.
- G. Expense reimbursement to City. The grantee shall reimburse the City for all reasonable costs and expenses incurred by the City in connection with the initial granting (but not renewing or transferring) of an agreement, including, but not limited to, consultant fees, attorneys' fees, publication fees, travel expenses and all other direct costs. Such payment shall be made within 30 days after the City furnishes the grantee with a written, detailed statement of such expenses.

**§ 44-19. Bonds, insurance and indemnification.**

- A. Performance bond. At the City's election and as specified in the agreement, the grantee shall obtain and maintain during the entire term of any agreement and any extensions and renewals thereof, at its cost and expense, and file with the City, a construction bond and a performance bond in amounts specified in the agreement to guarantee the faithful performance of the grantee of its obligations. Such bonds must be issued by a surety licensed to do business in the State of Michigan and be of a form and contain terms and conditions as required by the agreement.
- B. Letter of credit. At the City's election and as specified in the agreement, the grantee shall, in addition to or in place of said bonds, obtain, maintain, and file with the City an irrevocable letter of credit from a financial institution acceptable to the City and licensed to do business in the State in an amount specified in the agreement, naming the City as beneficiary. The conditions upon which the City may draw upon the letter of credit shall be established in the agreement.
- C. Security fund. At the City's election and as specified in the agreement, the grantee shall, in addition to or in place of said bonds and letters of credit, deposit with the City, within 30 days after execution of the agreement, the sum specified in the agreement, as further security for the faithful performance by grantee of the provisions of the agreement and compliance with all orders, permits, and directions of any agency of the City and the payment of all claims, liens, fees, liquidated damages or taxes to the City arising by reason of the construction, operation, maintenance, or repair of grantee's cable system. The conditions upon which the City may draw upon said fund shall be established in the agreement.
- D. Liability and insurance. Each agreement granted shall require the grantee obtain and keep in effect reasonable policies of insurance, the amounts of which shall be specified in the agreement. At the City's request, grantee shall furnish copies of any of all policies which are in effect from time to time.
- E. Indemnification. Each agreement granted shall require that the grantee, at its sole cost and expense, fully indemnify, defend and hold harmless the City, its agents, officials, and employees against any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney fees, which arise out of or through the acts or omissions of grantee and its agents, officials or employees. Such indemnification shall not extend to lawsuits, claims, demands, liabilities, losses or expenses, including court costs and reasonable attorney fees, which arise from the acts or omissions or gross negligence of the City or its agents, officials or employees.

**§ 44-20. Design and construction provisions.**

- A. Compliance with construction and technical standards. Grantee shall construct, rebuild, install, operate and maintain its system in a manner consistent with state, federal and local laws and ordinances, (FCC) technical standards, and the agreement. Unless the agreement specifies otherwise, the system shall be designed, constructed, operated and maintained for 24 hours-a-day continuous operation.
- B. City approval of construction plans. Other than for repairs or replacements, prior to the erection of any towers

- § 44-20 or poles or the placement of conduits or the upgrade or rebuild of the cable system under this chapter, to the extent any of the above acts occur within the public rights-of-way, the grantee shall first submit to the City for approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if required, together with a map and plans indicating the proposed location of all such facilities. No such work shall be commenced by any person until said approval has been received from the City. § 44-21
- C. Contractor qualifications. Any contractor proposed for work of construction, installation, operation, maintenance, and repair of system equipment must be properly licensed under laws of the state and City ordinances, if any.
  - D. Minimum interference. The grantee's system and associated equipment erected by the grantee within the City shall be so located as to cause minimum interference with the proper use of streets and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets.
  - E. City maps. The City does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the location shall be verified by excavation.
  - F. Quality of construction. Construction, installation, operation, and maintenance of the cable system shall be performed in an orderly and workmanlike manner, in accordance with then current technological standards and the manufacturer's specifications. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations belonging to the grantee shall be arranged in parallel and bundled with due respect for aesthetic and engineering considerations.
  - G. Construction standards. The construction, installation, operation, maintenance, and/or removal of the cable system shall meet all applicable standards within the National Electrical Code, National Electrical Safety Code, AT&T Manual of Construction Procedures (Blue Book), Bell Telephone Systems Code of Pole Line Construction, all federal, state and municipal construction requirements, including FCC Rules and Regulations and Utility Construction Requirements. The system, once in place, does not have to be improved to conform to standards which are thereafter created unless those standards so require.
  - H. Right to inspection of construction. The agreement shall ensure that the City has the right to inspect all construction or installation work performed subject to the agreement.
  - I. System construction schedule. The agreement shall specify the rebuild or the initial construction timetable.
  - J. Extension of service. Unless the agreement states to the contrary, the grantee shall provide service to all dwelling units and commercial entities requesting service within the City and any areas annexed to the City within six months of such request.

**§ 44-21. Use of streets.**

- A. Underground installation. In areas where either telephone or electric utility facilities are aboveground at the time of installation, grantee may install its service above ground, provided that at such time as those other facilities are required to be placed underground by the City or are placed underground, the grantee shall likewise place its services underground (without additional cost to the City or to the individual subscribers so served within the City). Where not otherwise required to be placed underground by this chapter or the agreement, the grantee's system shall be located underground at the request of the adjacent property owner, provided that the excess cost over the aerial location shall be borne by the property owner making the request. All cable passing under the roadway shall be installed in conduit.
- B. Pedestals. In any cases which pedestals housing mini-hubs, switching or other equipment, are to be utilized, such equipment must be completely buried beneath streets or sidewalks if similar facilities of both electric and telephone utilities are or will concurrently be so buried. Any pedestals or other equipment to be located in the public rights-of-way shall comply with then-existing City and utility equipment installation

- § 44-21 requirements. No pedestal or other equipment which will occupy more than six square feet of the public right-of-way shall be so placed until the City so consents. All such buried equipment shall be shown in plan and cross-section on the design plans for permits. Notwithstanding the foregoing, none of the provisions of this subsection shall apply to grantee unless such requirements are uniformly and universally applied to all providers of any telecommunications or utility services. § 44-21
- C. Permits. Prior to construction or alteration, either above or below ground, the grantee shall, to the extent required by law or regulation, file plans with the appropriate City agencies, enter into use agreements with the utility companies, obtain all construction permits and receive written approval of the City before proceeding.
  - D. Construction notice. Grantee shall give appropriate notice to the City and affected residents within a reasonable period of time of planned major system construction or excavation work, but in no event shall such notice be given less than five days before such commencement.
  - E. Restoration to prior condition. If the grantee's actions result in any disturbance of pavement, sidewalk, driveway or soil, the grantee shall, at its own expense and in a manner approved by the City, replace and restore said surface in as good a condition as before said disturbance occurred. Such restoration shall be undertaken and completed as soon as practicable.
  - F. Private property. Grantee shall repair or replace all private property, both real and personal, damaged or destroyed as a result of the construction, installation, operating or maintenance of the cable system at its sole cost and expense and as soon as practicable.
  - G. Cooperation with building movers. The grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wire to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than 30 working days' advance notice to arrange for such temporary wire changes.
  - H. Tree trimming. Grantee may, at its own expense, trim trees or other vegetation owned by the City (or which exist within the right-of-way) to prevent branches, leaves or roots from touching or otherwise interfering with its wires, cables, or other structures as approved by the City and consistent with City ordinances; grantee shall remove any such trimmings within a reasonable time.
  - I. Easements. All necessary easements over and under private property shall be obtained by the grantee.
  - J. Construction and installation manual. Grantee shall provide the City with a copy of grantee's manual which sets forth the specifications, standards and procedures for construction and installation of its cable system. Said manual shall, at a minimum, establish procedures to ensure quality work and provide for the safety and protection of residents and property.
  - K. Equipment changes. Unless the City agrees to the contrary in writing, any substitution or changes in hardware components over the items specified in the agreement must be of equivalent or better capability as that originally specified.
  - L. Encumbrance. Grantee shall not open, distribute or encumber, at any one time, any more public rights-of-way than may reasonably be necessary to enable grantee to economically install or repair its facilities; nor shall grantee permit any public rights-of-way to remain open, disturbed or encumbered for a longer period of time than is reasonably necessary.
  - M. Vacation. If a public right-of-way is vacated, eliminated, discontinued, or closed, all rights of grantee under this agreement to use same shall terminate and grantee at its expense shall immediately remove the telecommunications and/or cable system from such public right-of-way unless grantee obtains any necessary easements from the affected property owners to use the former public right-of-way.
  - N. Disconnect and relocation. Grantee shall protect, support, temporarily disconnect, relocate or remove its



§ 44-21 system facilities which exist within the public rights-of-way if, in the reasonable judgment of the City, it is necessary for the public safety or to facilitate street construction or other public improvements. Such acts shall be at the grantee's sole cost and expense so long as the same policy is imposed upon all other users of the rights-of-way. § 44-24

- O. Underground construction. Grantee shall comply with all state, federal and local laws and ordinances regarding underground construction, including that which relate to MISS DIG. If grantee damages any City water, sewage or drainage lines, or any other City property, during the course of construction, grantee shall be responsible for the cost of repair, which sums may be recovered from bonds provided by the grantee for the benefit of the City.

**§ 44-22. Conduit.**

- A. Approval for conduit. No conduit shall be installed by the grantee without prior approval of the City with regard to location and any other pertinent aspect.
- B. Use of existing conduit. Where conduit already exists for use and is available for use by the grantee, but grantee does not make arrangements for such use, the City may require the grantee to use such conduit if it determines that the public convenience would be enhanced thereby and if a similar demand is made upon electric or telephone entities with similar underground facilities, and if grantee is able to gain access under commercially reasonable terms.

**§ 44-23. Service provisions.**

- A. Programming. Concurrently with the activation of the cable system in the City, the grantee shall provide at all times the following services to its subscribers:
  - (1) A basic service tier.
  - (2) Access channels for government, educational, and public access, the number of which shall be specified in the agreement.
  - (3) If grantee offers an electronic and/or printed channel guide to subscribers and is capable of providing local program listings, and listings of local access programs are provided by the City in a timely manner, the grantee shall ensure that the City-provided listings are carried on a daily basis. Additional costs of providing these services may be passed through to subscribers.
  - (4) Services, facilities and equipment for public, educational, and government access, as specified in the agreement.
- B. Institutional network. The grantee shall provide a separate institutional network, equipment, and/or services and capacity, in addition to the residential subscriber network, as specified in the agreement.

**§ 44-24. Operation after termination or expiration of agreement.**

- A. Subscription rights. It shall be the right of all subscribers to receive continuous, uninterrupted service insofar as their financial contractual and legal obligations to the grantee are honored.
- B. Failure to provide continuity. In the event the grantee fails to operate the system for seven consecutive days without prior approval of the City or without just cause, the City may, at its option, operate the system or designate an operator until such time as grantee restores service under conditions acceptable to the City or a permanent operator is selected. If the City is required to fulfill this obligation for the grantee, the grantee shall reimburse the City for all reasonable costs or damages in excess of revenues from the system received by the City that are the result of the grantee's failure to perform.
- C. Extended operation. In the event the agreement is terminated, or upon its expiration, the Commission may

§ 44-24 require the grantee to continue operation for a period not exceeding 12 months after the date of the grantee's termination or expiration, grantee shall remove, at its own expense, its system facilities from all public rights-of-way and shall maintain bonds until the conclusion of all operations under that agreement and this chapter, including said removal of facilities. § 44-27

**§ 44-25. Nondiscrimination required.**

Grantee shall not illegally discriminate in providing service to the public nor against any employee or applicant for employment because of race, color, religion, sex, national origin or age.

**§ 44-26. Initial agreement applications.**

- A. Invitation of any applications for an agreement, public notice of request for proposals. The City may charge an application fee and require applicant to pay all related costs and expenses for the initial agreement process. The City may invite applications for a cable television agreement by means of a public notice advertising the availability of its request for proposals.
- B. Request for proposals. Prior to inviting any applications for any cable television agreement, the City shall prepare a request for proposals that shall contain at least the following:
  - (1) A description of the cable television system and services desired by the City including any system specifications established by the City.
  - (2) A statement specifying the form that all applications shall follow.
  - (3) A statement indicating the amount of the application fee (if any) to be submitted with the application, and the manner in which such fee is to be submitted.
  - (4) A statement that all applications must contain the information required by the request for proposal.
  - (5) The closing date for the submission of applications.
  - (6) The name, address, and telephone number of the City official(s) who may be contacted for further information.
- C. Agreement application. Any applicant for an agreement shall complete the City's request for proposal and provide the information required therein.
- D. Requirement for public hearing on reasonable notice. The City shall conduct a public hearing before granting an agreement. The hearing shall be preceded by 14 days' notice to the agreement applicant, to any existing grantee, and to the public, and shall be conducted in a fashion to insure that all interested persons have an opportunity to speak. Every person who has applied for an agreement shall appear at the hearing either in person or by authorized representative. The application of any applicant not so appearing shall not be further considered, except for good cause shown.
- E. City discretion. In accordance with this chapter and other applicable law, the City, at its discretion, may reject or award any application for an agreement.

**§ 44-27. Miscellaneous provisions.**

- A. Assigns. All provisions of this chapter shall apply to the grantee, its successors, and assigns, as such may be approved by the City in accordance with this chapter.
- B. Resale. No person shall resell, without the written consent of the grantee, any cable service, program, or signal transmitted by a grantee.

**Chapter 45**

**TELECOMMUNICATIONS**



§ 44-27

[**HISTORY: Adopted by the City Commission of the City of Kalamazoo 10-28-2002 by Ord. No. 1746.** <sup>§ 45-5</sup>  
**Amendments noted where applicable.]** <sup>165</sup>

#### GENERAL REFERENCES

Cable television — See Ch. 41.

Cable communications — See Ch. 44.

Cable television rate regulations — See Ch. 43.

#### STATUTORY REFERENCES

Metropolitan Extension Telecommunications Rights-of-Way Oversight Act — See MCLA § 484.3101 et seq.

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### § 45-1. Purpose.

The purpose of this chapter, which shall be known as the "Telecommunications Ordinance," is to regulate the access to and use of public rights-of-way by telecommunication providers so as to protect the public health, safety, and welfare and to exercise reasonable control of the public rights-of-way, in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002, hereinafter "State Act")<sup>166</sup> and to ensure that the City qualifies for distributions under the State Act.

### § 45-2. Permits for use of public rights-of-way.

- A. Except as otherwise provided in the State Act, a telecommunications provider (as defined in the State Act) 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 the State Act, which shall govern and control the City's response.
- B. A telecommunications provider which was issued a permit pursuant to the sections repealed above may remain in the rights-of-way and need not obtain a new permit until and unless required by the State Act; any terms and conditions set forth in the previously-issued permit which are inconsistent with the State Act shall be void. The duty to pay annual fees by said permit shall terminate November 1, 2002.

### § 45-3. Requirements for start of construction; compliance with applicable codes and law.

A telecommunications provider shall not commence construction upon, over, across, or under a public right-of-way in the City without first obtaining all licenses and permits required by City Code or state law; once its facilities are placed within the right-of-way, the telecommunication provider shall thereafter comply with all applicable City Codes and state law.

### § 45-4. Preservation of City's rights.

This chapter shall not limit the City's right to review and approve a telecommunication provider's access to and on-going use of a public right-of-way, or to limit the City's authority and power to ensure and protect the public health, safety and welfare.

### § 45-5. Penalty for violation.

- A. A telecommunication provider which violates any provision of this chapter for the terms or conditions of a

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<sup>165</sup>.Editor's Note: This ordinance also repealed former Ch. 45, which pertained to similar subject matter, and derived from Ord. No. 1721, adopted 6-4-2001.

<sup>166</sup>.Editor's Note: See MCLA § 484.3101 et seq.

§ 45-5 permit may be charged by the City with a civil infraction punishable by a fine of not more than \$100. Each day in which a violation of this chapter continues constitutes a separate infraction and shall be subject to penalties and other remedies as a separate infraction. § 45-5

- B. In addition to any remedies set forth above and unless contrary to the State Act, the City may bring an action for an injunction or other relief against a telecommunication provider to restrain, prevent, or abate a violation of this chapter and/or to revoke said provider's permit.

**Chapter 46**

**REGULATION OF SEXUALLY ORIENTED BUSINESSES**





**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 5-17-2004 by Ord. No. 1772. Amendments noted where applicable.]**

GENERAL REFERENCES

Adult regulated uses — See App. A, § 4.2B.

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**§ 46-1. Title of chapter.**

This ordinance creates Chapter 46 of the Kalamazoo City Code and shall be entitled "Regulation of Sexually Oriented Businesses."

**§ 46-2. Purpose and findings.**

A. Purpose.

- (1) In the development and execution of this chapter, it is recognized that there are some uses, known as "adult regulated uses" or "sexually oriented businesses," which, because of their nature, have serious objectionable operational characteristics. Special regulation of these uses is necessary to prevent the adverse secondary effects associated with such enterprises. The controls contained within this chapter are for the purpose of preventing the negative secondary effects associated with sexually oriented businesses.
- (2) It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

B. Findings.

- (1) This chapter is based on evidence of the adverse secondary effects of adult uses that is within the common knowledge of municipalities and is widely reported in judicial opinions, media reports, land use studies, and crime impact reports made available to the City Commission, several of which are set forth herein. Additionally, the City Commission relies on repeated judicial findings of municipalities' reasonable reliance on this body of secondary effects evidence to support time, place, and manner regulations of sexually oriented businesses. The Commission relies upon and incorporates the findings of secondary effects discussed in the following non-exhaustive list of cases from the U.S. Supreme Court: *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 122 S. Ct. 1728 (2002); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *California v. LaRue*, 409 U.S. 109 (1972).
- (2) The Commission also relies on relevant decisions of federal appellate and trial courts: *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Currence v. City of Cincinnati*, 2002 U.S. App. LEXIS 1258; *Broadway Books v. Roberts*, 642 F.Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F.Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Center for Fair Public Policy v. Maricopa County*, 2003 U.S. App. LEXIS 14918 (9th Cir. July

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28, 2003); *Deja vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 7923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Deja vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Z.J. Gifts D—2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *World Wide Video of Spokane, Inc. v. City of Spokane*, 227 F.3d 1143 (E.D.Wash. 2002); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County*, 209 F.Supp.2d 672 (W.D. Ky. 2002).

- (3) Additionally, the Commission expressly relies upon Michigan cases relating to adult businesses, municipal regulatory authority, and public nuisances including, but not limited to, the following cases: *Rental Property Owners Association of Kent County v. City of Grand Rapids*, 455 Mich. 246, 566 N.W.2d 514 (1996); *Michigan ex rel Wayne County Prosecutor v. Dizzy Duck*, 449 Mich. 353, 535 N.W.2d 178 (1995); *City of Warren v. Executive Art Studio*, 1998 Mich. App. LEXIS 2258 (1998); *Tally v. City of Detroit*, 54 Mich. App. 328 (1974); *Jott, Inc. v. Clinton Township*, 224 Mich. App. 513 (1997). The Commission also relies upon media reports that document the harms associated with adult businesses: See, e.g., *Muskegon Man Convicted in Beating Death of Adult Bookstore Manager*, Associated Press State & Local Wire, September 9, 1999; *Katie Merx, X-rated Inkster Theater Razed: Officials, Cops, Residents Cheer Demolition of Melody, An Embarrassment for 22 Years*, The Detroit News, August 19, 1999, at D3 (discussing documented sexual activity in and around adult business); *Craig Garrett, Suburbs Declare War on Smut Shops*, The Detroit News, June 30, 1999, at A1 (describing how adult theater patrons would solicit young people in the area for sex); *Justin Hyde, Warren Leaders Want to Pursue Product Liability Against Porn Shop*, Associated Press State & Local Wire, February 4, 1999 (child rapist arrested in peep show establishment).
- (4) The Commission further relies on reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona — 1984; Minneapolis, Minnesota — 1980; Houston, Texas — 1997; Indianapolis, Indiana — 1984; Amarillo, Texas — 1977; Garden Grove, California — 1991; Los Angeles, California — 1977; Whittier, California — 1978; Austin, Texas — 1986; Seattle, Washington — 1989; Oklahoma City, Oklahoma — 1986; Cleveland, Ohio — 1977; Dallas, Texas — 1997; McCleary Report, Alliance, Ohio — 2002; Tucson, Arizona — 1990; Testimony, Warner-Robins, Georgia — 2000; St. Croix County, Wisconsin — 1993; Bellevue, Washington, — 1998; Newport News, Virginia — 1996; St. Cloud, Minnesota — 1994; New York Times Square study — 1994; Phoenix, Arizona — 1995-1998; and also on findings of physical abuse from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, January 12, 2000, and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota). Based on the cases and reports documenting the adverse impact of adult businesses, the Commission finds:
- (a) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, illicit sex acts, potential spread of disease, lewdness, public indecency, illegal drug use and drug trafficking, negative impacts on property values, urban blight, pornographic litter, and sexual assault and exploitation.
- (b) Sexual acts, including masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, especially those that provide private or semiprivate rooms, booths, or cubicles for view films, videos, or live sexually explicit shows.
- (c) Each of the foregoing negative secondary effects constitutes a harm, which the City has a

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substantial government interest in preventing and/or abating.

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- (d) The information received at the public forum held on March 29, 2004, and at the City Commission meeting of May 3, 2004, confirms that the secondary effects described above and experienced by other municipal governments do occur in and around sexually oriented businesses located and existing in the City of Kalamazoo and the surrounding area. The Commission also finds that educational and artistic uses of nudity or sexual content also occur under circumstances which do not result in adverse secondary effects due to the time, place, or manner of their presentation; and therefore, they require different or no regulation. Information received at the public forum on March 29, 2004, and the City Commission meeting of May 3, 2004 supported this conclusion.

- C. Subject uses. The following adult regulated uses are subject to these controls:

Adult arcade or mini motion-picture theaters

Adult bookstores, adult novelty stores, or adult video stores

Adult cabarets

Adult motels

Adult motion-picture theaters

Adult outdoor motion-picture theaters

Adult model studios

Adult physical culture businesses

Adult theaters

Adult personal service businesses

- D. None of the foregoing uses shall be interpreted to include any use exempt from the provisions of the Adult Use Zoning Ordinance pursuant to § 1B.9. of that ordinance.<sup>167</sup>

### § 46-3. Definitions.

- A. As used in this chapter, the following terms shall have the indicated meanings:

**ADULT ARCADE or MINI MOTION-PICTURE THEATER** — Any place to which the public is permitted or invited which contains adult booths as defined herein and wherein coin operated or slug operated, or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are regularly maintained to show images to patrons and where the images regularly displayed are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein).

**ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE** — A commercial establishment which has significant or substantial portion of its inventory, or derives a significant or substantial portion of its revenues, or devotes a significant or substantial portion of its interior or exterior advertising, or maintains a substantial section of its sales or display space to the promotion and sale or rental, for any form of consideration, of any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion-pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the display or description of specified sexual activities or specified anatomical areas;
- (2) Noncontraceptive instruments, devices, or paraphernalia which are designed for use in connection with

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<sup>167</sup>Editor's Note: See now App. A, Zoning Ordinance, § 4.2B.

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specified sexual activities or marketed primarily for stimulation of human genital organs or for persons' sadomasochistic use or abuse of themselves or others. § 46-3

**ADULT BOOTH** — A partitioned area of less than 100 square feet inside an adult regulated use which is:

- (1) Designed or regularly used for the viewing of books, magazines, periodicals, or other printed matter, photographs, films, motion-pictures, video cassettes, slides, or other visual representations, recordings, and novelties or devices which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas by one or more persons; and
- (2) Is accessible to any person, regardless of whether a fee is charged for access. "Adult booth" does not include a foyer through which any person can enter or exit the establishment, or a rest room.

**ADULT CABARET** — A nightclub, cafe, restaurant, lounge, bar or similar establishment, (which may or may not include the service of food or beverages), which regularly features persons who appear seminude.

**ADULT MODEL STUDIO** — Any place where a person who displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Such an establishment includes, but is not limited to, the following activities and services: modeling studios, body painting studios, wrestling studios, individual theatrical performance or dance performances, barber shops or hair salons, car washes, and/or convenience stores. An adult model studio shall not include a proprietary school licensed by the State of Michigan or a college, junior college, or university supported entirely or in part by public taxation, a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation, or in a structure:

- (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing; and
- (2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and
- (3) Where no more than one nude or seminude model is on the premise at any one time.

**ADULT MOTEL** — A hotel, motel, or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; and
- (2) Provides patrons with closed circuit television transmissions, films, motion-pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; and
- (3) Has a sign visible from the public right-of-way which:
  - (a) Advertises the availability of this adult-type of photographic reproductions; or
  - (b) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
  - (c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

**ADULT MOTION-PICTURE THEATER** — A commercial establishment where, for any form of consideration, films, motion-pictures, videos, slides, or other photographic reproductions are regularly shown in which a substantial portion of the total presentation is devoted to the showing of material which are distinguished or characterized by their emphasis on the depiction, description, or relation to specified sexual activities or specified anatomical areas for observation or entertainment of patrons, guests, and/or members.

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ADULT OUTDOOR MOTION-PICTURE THEATER — A commercial establishment having an open lot or part thereof with appurtenant facilities devoted primarily to the presentation of motion-pictures, films, theatrical productions, and other forms of visual productions for any form of consideration to persons in motor vehicles or in outdoor seats, and regularly presenting material distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation or entertainment of patrons, guests, and/or members.

ADULT PERSONAL SERVICE BUSINESS — A commercial business having as a principal activity a person, while nude or partially nude, providing personal services for another person on an individual basis. Such a business includes, but is not limited to, the following activities and services: Modeling studios, body painting studios, wrestling studios, individual theatrical performances or dance performances, barber shops or hair salons, car washes, convenience stores or other commercial business establishments where food or goods and services are sold, and tattoo parlors where services are being performed by a person who is nude or partially nude. "Nude" or "partially nude" is defined as having attire which reveals specified anatomical areas as defined in this section.

ADULT PHYSICAL CULTURE BUSINESS — Any commercial establishment, club, or business by whatever name designated, which regularly offers or advertises or is equipped or arranged to provide massages, body rubs, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult physical cultural business may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths.

ADULT REGULATED USE — Adult physical culture business; adult bookstore, adult novelty store; adult video store, adult theater; adult cabaret; adult motion-picture theater, adult outdoor motion-picture theater; adult arcade or mini motion-picture theater, adult motel, adult booth, or adult personal service business.

ADULT THEATER — A commercial establishment which is a theater, concert hall, auditorium, or similar commercial establishment, either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances which are distinguished or characterized by their emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by guests, patrons, and/or members. An adult theater does not include a theater, concert hall, auditorium, or similar establishment which, for any fee or consideration, regularly features live performances which are not distinguished or characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas in that any such depiction or description is only incidental to the primary purpose of the performance. An adult theater does not include a proprietary school licensed by the State of Michigan or a college, junior college, or university supported entirely or in part by public taxation, or a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

COMMERCIAL ESTABLISHMENT — Any business, location, or place which conducts or allows to be conducted on its premises any activity for commercial gain.

DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON — The dominant or principal theme of the object so described. For example, "films which are distinguished or characterized by an emphasis upon the exhibition or description of specified sexually activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description of specified anatomical areas or specified sexual activities.

EMPLOYEE — A person who performs any service for any consideration on the premises of an adult regulated use on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said adult regulated use. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

ESTABLISHMENT — The site or premises on which an adult regulated use is located, including the interior

§ 46-3 of the establishment or portions thereof, upon which certain activities or operations are being conducted for commercial gain. § 46-4

**NUDITY or STATE OF NUDITY** — The knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female individual's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this chapter, does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

**OPERATOR** — An owner, manager, or other person who exercises control over the premises or operation of an adult regulated use.

**REGULARLY** — In the context of "regularly features," "regularly shown" or similar contexts in this chapter, means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

**SEMINUDE or STATE OF SEMINUDITY** — A state of dress in which opaque covering covers no more than the genitals or anus and nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided that the areola and nipple are not exposed in whole or in part.

**SPECIFIED ANATOMICAL AREAS** — Portions of the human body defined as follows:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, or the nipple and areola of the female breast;
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** — The explicit act or display of one or more of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

#### **§ 46-4. Prohibited conduct.**

Nothing contained in this chapter is intended, or shall be construed, to permit or authorize activities that are unlawful under state law or City ordinance. It shall be unlawful for an operator to knowingly violate the following regulations or to allow, either knowingly or through negligent failure to supervise, an employee or a patron to violate the following regulations.

- A. It shall be a violation of this chapter for a patron, employee, or any other person to knowingly or intentionally, in an adult regulated use, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.
- B. It shall be a violation of this chapter for an employee to knowingly or intentionally, in an adult regulated use, appear in a seminude condition except on a fixed stage that is at least 18 inches from the floor and at least six feet removed from all patrons or customers.
- C. It shall be a violation of this chapter for any employee, while seminude in an adult regulated use, to knowingly or intentionally receive any pay or gratuity directly from any patron or customer or for any patron or customer to knowingly or intentionally pay or give any gratuity directly to any employee, while said employee is seminude in an adult regulated use.
- D. It shall be a violation of this chapter for any employee, who regularly appears seminude in an adult regulated

§ 46-4 use, to knowingly or intentionally touch a customer or the clothing of a customer.

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- E. It shall be a violation of this chapter to knowingly operate an adult booth other than as follows: the interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station to each area of the premises, including the interior of each adult booth but excluding rest rooms, to which any patron is permitted for any purpose. A manager's station shall not exceed 32 square feet of floor area. The view required in this paragraph must be by direct line of sight from a manager's station and at least one employee is required to be on duty and situated in each manager's station at all times that any patron is in the area monitored by that respective manager's station. The view area specified in this paragraph shall remain unobstructed by any doors, curtains, or walls at all times that any patron is on the premises.
- F. It shall be a violation of this chapter for any person to knowingly enter or remain present in an adult booth at any time the adult booth is occupied by another person, unless two or more persons are necessary for repair or maintenance of the booth.
- G. It shall be a violation of this chapter for any employee to create, maintain, or permit holes or openings of any kind to exist between adult booths.
- H. It shall be a violation of this chapter for any operator to allow an adult regulated use to remain open to customers between the hours of 2:00 a.m. and 7:00 a.m. on any day.
- I. It shall be a violation of this chapter for any person to possess, use, or distribute any illegal controlled substance on the premises of an adult regulated use.
- J. It shall be a violation of this chapter for any person to engage in any act of lewdness, assignation, or prostitution on the premises of an adult regulated use.

**§ 46-5. Scienter required to prove violation or operator liability.**

Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee shall be imputed to the adult regulated use operator for the purpose of establishing a violation of this chapter only if the operator allowed, either knowingly or through negligent failure to supervise, a violation of this chapter to occur. It shall be a defense to liability that the operator was powerless to prevent the violation.

**§ 46-6. Applicability to existing businesses.**

The provisions of this chapter shall apply, upon its effective date, to the activities of all adult regulated uses described herein, provided that adult regulated uses which must make physical alterations to the regulated business premises in order to conform to this chapter shall have 180 days from the effective date of this chapter to make such changes and so conform.

**§ 46-7. Penalty.**

Any person, business, or entity violating or refusing to comply with any provision of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by imposition of a fine not to exceed \$500 or by imprisonment for a period not to exceed 90 days, or both. Each day that a violation is permitted to exist or occur shall constitute a separate offense. Further, any premises, building, dwelling, or other structure in which an adult regulated use as defined in this chapter which is repeatedly operated or maintained in violation of the provisions of this chapter shall constitute a public nuisance and shall be subject to nuisance abatement proceedings initiated by the City of Kalamazoo in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

**§ 46-8. Construction.**

Every provision of this chapter shall be narrowly interpreted, construed, and enforced in a manner consistent with

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the purpose of this chapter and consistent with all applicable statutes and constitutional provisions.

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**Chapter 50**  
**ZONING**



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**[HISTORY: Adopted by the City Commissioners of the City of Kalamazoo 11-2-2020 by Ord. No. 2018.<sup>168</sup>**

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**Amendments noted where applicable.]**

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**168.Editor's Note: This ordinance also repealed former Ch. 50, Zoning, adopted 11-19-2018 by Ord. No. 1973, as amended.**



ARTICLE 0  
How To Use These Regulations

**§ 50-0.1. Live-Work 1, Live-Work 2, Neighborhood Node, Downtown 1, Downtown 2, and Downtown 3 Zoning Districts. [Amended 6-6-2022 by Ord. No. 2049]**

- A. This Zoning Code provides a variety of zoning districts to support development and redevelopment and the alignment of land use with our transportation network in Kalamazoo. Follow the steps on the adjacent page to determine what zoning standards apply to your property.
- B. In addition to traditional zoning districts, this Code also includes districts that apply form-based regulations. The Live Work 1, Live Work 2, Neighborhood Node, Downtown 1, Downtown 2, and Downtown 3 zoning districts set development standards that focus not only on the use of the building, but also the building's form and impact on the block and adjacent street. These regulations go beyond basic setback lines and maximum height to consider such elements as building entrance, minimum amount of transparent windows, and both minimum and maximum heights. The intent of each zoning district can be found in Article 3, Zoning Districts, and maps. Information on the development standards for each district is found in Article 5, Zoning Standards; Lot Types.
- C. This Zoning Code also considers the street network when setting standards for where uses may be located and building, access, and parking locations. In order to create active and inviting public places and support economic vitality at a variety of scales and locations, buildings and uses on lots and the adjacent streets must work together, rather than be in conflict. To this end, the City has created a Street Design Manual to guide its work in designing City streets and to support development that impacts the City's rights-of-way. A street type map is included with the Zoning Map.
- D. To determine the zoning regulations that apply to a parcel, please follow these steps. The Planning Division is always available to answer questions at 269-337-8044.

**1 Zoning District and Street Type**

In what zoning district is your property located?

On what street type is your property located?



Locate the property on the Zoning Map (Refer to Figure 1.2-1 Zoning Map.) and the City's Online GIS system available from [www.cityofkalamazoo.org/maps](http://www.cityofkalamazoo.org/maps). Locate the street type(s) adjacent to your property (refer to Figure 1.2-2) and the Street Design Manual for additional background at [www.imaginekalamazoo.com/projects/streetdesignmanual](http://www.imaginekalamazoo.com/projects/streetdesignmanual).

**2 Permitted Use**

§ 50-0.1  
What is your desired use? Is it permitted in this location?



§ 50-0.1  
Refer to Table 4.1-1, Use Table, to review what uses are permitted in each zoning district. Information on accessory uses and structures can be found in Table 4.1-1. Many uses have specific design standards by district,; these are described in § 50-4.4, Use definitions and standards.

3

### Zoning Standards

What are the requirements for developing or rehabbing a building in this location?



Go to 50-5 Zoning Standards. The standards for each district are noted in one of two tables:

1. Table 5.1-1 Permitted Lot Types by District
  - These are the standards for the form-based districts
  - In most districts, more than one lot type is permitted; lot type descriptions are found in § 50-5.6, Lot type standards.
  - Each lot type has its own standards specific to that lot type, including detailed illustrations.Select the lot type for your project and use these standards to design your project
2. Table 5.1-2 Dimension Standards by District
  - Standards for these districts are listed in this tableAll the zoning standards, regardless of which zoning district applies to your property are defined in §§ 50-5.2 to 50-5.5.  
When rehabbing an existing building refer to § 50-1.4 to determine what activities would result in meeting the requirements of Chapter 50.

ARTICLE 1  
**General Requirements**

**§ 50-1.1. Purpose.**

- A. The intent of these requirements is to:
  - (1) Create a flexible, market-driven approach to the districts defined to promote public health, safety, and general welfare.
  - (2) Realize the community's vision as detailed in the Master Plan, including permitting a variety of uses, increased variety of housing infill, and promoting active walkable nodes and corridors through the inclusion of building form requirements.
- B. This document should reflect the current adopted Master Plan; if substantial changes occur, this text should be reviewed and amended.

**§ 50-1.2. Zoning Map; conflicts; existing structures.**

- A. Zoning Maps. The zoning districts detailed in these regulations are mapped according to Figure 1.2-1. Throughout this Code, many standards are tied to both the mapped zoning districts and the street type; the street types are mapped according to Figure 1.2-2.
  - (1) Maps.

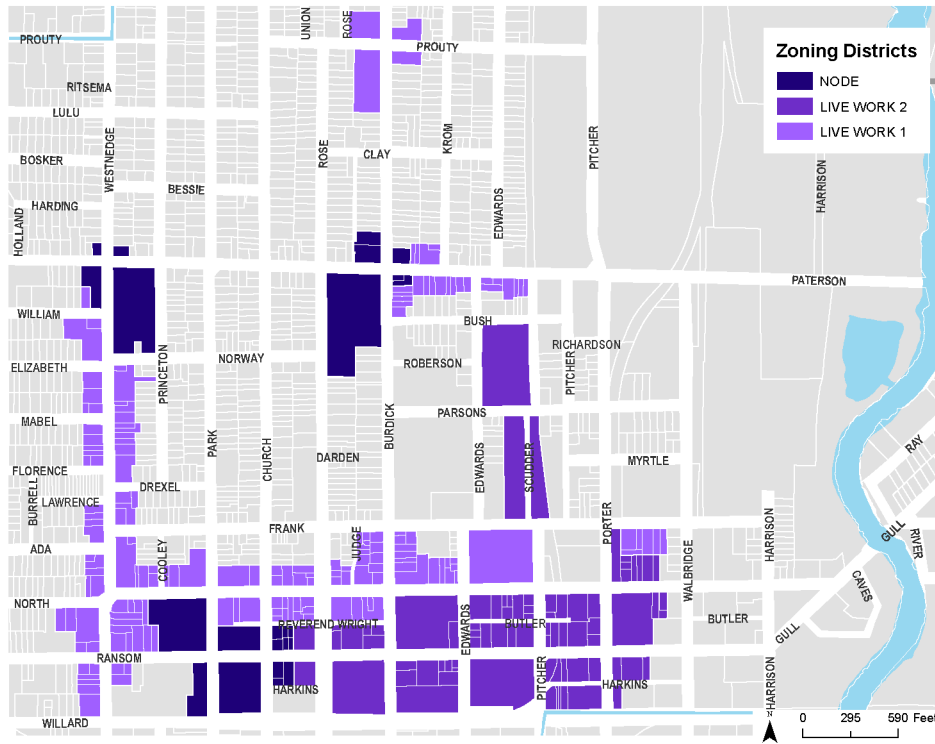


Figure 1.2-1 Zoning Map

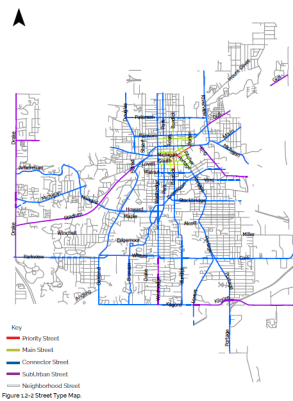


Figure 1.2-2 Street Type Map

- B. Conflicts. If a conflict arises between the regulations in Chapter 50 and those in Appendix A, the regulations of Chapter 50 take precedent unless otherwise approved by the City Planner.
- C. Existing structures. The form-based zoning districts are intended to allow existing structures to remain while integrating new development through the use of the form-based standards.

**§ 50-1.3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**AGRICULTURE** — Growing of food crops indoors or outside for personal use, donation, or sale; this excludes the growth of marihuana plants for medicinal or recreational purposes.

**ALLEY** — A public or private right-of-way intended for accessing rear yards, utilities, trash pick up, and vehicular

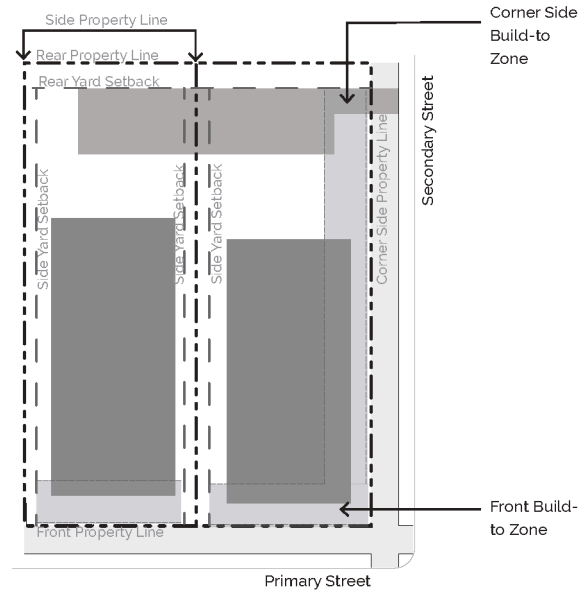


§ 50-1.3 access to parking or loading areas. The City Planner can approve having existing courts serve the same functions as alleys, as it relates to the requirements of this code. § 50-1.3

**BASAL AREA** — A method of determining woodland density by measuring the cross-sectional area of individual tree stems over a particular unit area.

**BEST MANAGEMENT PRACTICES (BMP)** — Commercial or professional procedures that are accepted or prescribed as being correct or most effective.

**BUILD-TO ZONE** — The designated area on a lot that the front or corner side facade of a building must be located. The zone dictates the minimum and maximum distances a building may be placed from the front or corner side lot line. Refer to Figure 1.3-1 Build-to Zone, Property Lines, and Yards.



**Figure 1.3-1 Build-to Zone, Property Lines, and Yards**

**CANOPY, TREE** — The upper layer of a woodland formed by the crowns of mature trees.

**COURTYARD** — An open-to-the-sky outdoor area enclosed by a building on at least two sides. Parking is not permitted in a courtyard.

**CRITICAL ROOT ZONE (CRZ)** — The zone encompassing the majority of a tree's roots. It is calculated by measuring the diameter of a tree trunk at breast height and measuring outward from the trunk 18 inches for every inch of trunk diameter. Refer to Figure 1.3-1 Measuring Critical Root Zone.

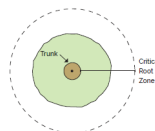


Figure 1.3-1 Measuring Critical Root Zone

**CULTIVATE** — To propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means. [Added 5-18-2020 by Ord. No. 2007]

**DEVELOP** — The construction, removal, or renovation of a primary or accessory structure or other impervious surfaces on a lot.

**DIAMETER AT BREAST HEIGHT (DBH)** — The diameter of a tree trunk measured at 4.5 feet above ground

## DISTURBANCE —

## A. Includes any of the following:

- (1) Placement of impervious surface or structure;
- (2) Exposure or movement of soil, including removal or addition of soil or other natural or manufactured materials;
- (3) Clearing, cutting, or removing of vegetation;

B. Except when any of these activities are done in order to maintain or improve ecosystem health, mitigate or prevent erosion and sedimentation, or mitigate harm, such as by removal of invasive or diseased vegetation, to the natural feature. **[Added 8-16-2021 by Ord. No. 2037]**

ECOSYSTEM — A biological community of interacting organisms and their physical environment.

ECOSYSTEM ASSESSMENT, WOODLAND — A method for quickly gathering information about the plant density, species diversity, and/or condition of a woodland habitat.

ENDANGERED SPECIES — Any species recognized by the State of Michigan and/or federal government as being in danger of extinction throughout all or a significant portion of its range.

ENTRANCE TREATMENT — The permitted treatments of the ground story facade, including entrance and window transparency. Refer to § 50-5.5, Entrance treatment.

EQUIVALENT LICENSE — Any of the following when held by a single licensee:

- A. Grower license of any class under both the MRTMA and MMFLA;
- B. Processor licenses under both the MRTMA and MMFLA;
- C. Secure transporter licenses under both the MRTMA and MMFLA;
- D. Safety compliance facility licenses under both the MRTMA and MMFLA; and
- E. A retailer license under the MRTMA and a provisioning center license under the MMFLA.

FACADE — The exterior face of a building, including but not limited to the wall, windows, doorways, and design elements. The front facade of a building faces the front property line.

FACADE, STREET-FACING — Facade of a building facing a public or private space, such as a street or park. This does not include building facades along alleys, which would be considered rear facades.

FORBS — Nonwoody plants and wildflowers other than grasses. **[Added 8-16-2021 by Ord. No. 2037]**

GRAMINOIDS — Grasses, sedges, and rushes.

HABITAT — The natural home or environment of an animal, plant, or any other living organism.

HABITAT CORRIDOR — An area of land containing wildlife habitat, generally native vegetation, which joins or provides passage between two or more larger areas containing similar wildlife habitat, and the entire corridor thus formed.

INDUSTRIAL HEMP — Any part of the plant, whether growing or not, *Cannabis sativa* L. or the genus *cannabis* with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marijuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant regardless of moisture content. Industrial hemp includes industrial hemp commodities and products and topical or ingestible animal and consumer products with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry-weight basis.

§ 50-1.3

§ 50-1.3

INVASIVE SPECIES — Any living organism that is not native to an ecosystem and causes the ecosystem harm.

LOT TYPE — A lot type is defined by the combination of building siting, form, facade treatment, parking and access, and use. Refer to Article 5.

MARIHUANA — All parts of the plant *Cannabis sativa* L. or of the genus *cannabis*, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this chapter, marihuana does not include:

- A. The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
- B. Industrial hemp; or
- C. Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

MARIHUANA-INFUSED PRODUCTS — A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption in a manner other than smoke inhalation.

MARIHUANA ESTABLISHMENT, ADULT USE. — An adult use marihuana commercial business operation licensed pursuant to the MRTMA and permitted to operate by City ordinance.

MARIHUANA ESTABLISHMENT, MEDICAL — A medical marihuana commercial business operation licensed pursuant to the MMFLA and permitted to operate by City ordinance.

MASTER PLAN — City of Kalamazoo planning document that outlines the community's vision primarily as it relates to land use and transportation.

MMFLA — The acronym for the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq.

MRTMA — The acronym for the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCLA § 333.27951 et seq.

NATIVAR — A cultivar of a native plant species.

NATIVE SPECIES — A species that normally lives and thrives in a particular place as a result of natural processes, not human introduction, disturbance, or intervention. For the purposes of this chapter, a "particular place" is defined as Kalamazoo County.

NATURAL COMMUNITIES — Groups of plants and animals and their physical environment that have experienced minimal human-caused disturbance or recovered from that disturbance.

NATURAL FEATURES — Features defined in the Natural Feature Protection Overlay, specifically wetlands, water resources, trees, woodlands, floodplains, slopes, natural heritage areas, and habitat corridors.

NATURAL VEGETATION — Plants that grow naturally, especially but not limited to those that provide habitat for wildlife; deep roots to stabilize banks, shorelines, and slopes; or canopy for shade.

NREPA — Michigan's Natural Resources and Environmental Protection Act, 451 of 1994, as amended, MCLA §§ 324.101 through 324.90106.

OCCUPIED SPACE — The first 15 feet inside a building measured from the front facade and on corner side facades. In this space, uses such as interior parking, residential units, storage, or utility areas may be restricted. Refer to Article 5, Zoning Standards; Lot Types, for more information.<sup>169</sup>**[Amended 6-6-2022 by Ord. No. 2049]**

ORDINARY HIGH-WATER MARK — The upper limit that the water level reaches during regular changes in

water level. Refer to Figure 6.2-1, Wetland and Water Resources Setbacks.<sup>170</sup>

**PARCEL, PARENT** — The parcel or tract of land lawfully in existence on the effective date of the Natural Features Protection Overlay District.

**PLAYGROUND** — Any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swing sets, and teeterboards.

**PRESERVE** — An area of land under common ownership by a tax-exempt nonprofit organization where a management plan for conservation, wildlife, historic resources, or ecological resources or values is actively implemented.

**PROCESS or PROCESSING** — The activity to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

**PROPERTY LINE** — Also referred to as "lot line." Refer to Figure 1.3-1, Build-to Zone, Property Lines, and Yards.

**PROPERTY LINE, FRONT** — Also referred to as a "front lot line." The intersection of the right-of-way and the property or lot; the area from which the front build-to zone is set. Refer to Figure 1.3-1, Build-to Zone, Property Lines, and Yards.

- A. When a primary street abuts a through or corner lot, the front property line is that property line along the primary street.
- B. When a lot abuts two or more primary streets or does not abut any primary streets, the front property line shall be determined by the City Planner.

**RESTORATION** — The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed.

**RIPARIAN AREA** — The area adjacent to a water resource or wetland.

**RUNOFF** — The portion of precipitation that does not soak into the ground or evaporate.

**SCALE** — Typically defined by the adjacent buildings and rights-of-way, scale refers to the size or massing of a structure or street.

**SEMIPERVIOUS MATERIALS** — A ground surface covering that allows for at least 40% absorption of water into the ground or vegetation, such as porous pavement, pavers, crushed stone, or gravel.

**SITE CHARACTERISTICS** — Minor, physical development features on a lot, including signage, landscaping, parking, driveway location, and other physical, but nonstructural elements of a site.

**SLOPE** — The area of the ground surface where there is a change in elevation over a horizontal distance.

**SLOPE ANALYSIS** — An analysis based upon a topographic survey used to calculate the grade of slopes.

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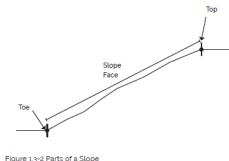
**169.**Editor's Note: The former definition of "orbs," which immediately followed this definition, was repealed 8-16-2021 by Ord. No. 2037.

**170.**Editor's Note: Figure 6.2-1, Wetland and Water Resources Setbacks, is included in § 50-6.2.

## § 50-1.3

**SLOPE FACE** — The surface area of the slope from top to toe of slope. Refer to Figure 1.3-2 Parts of a Slope.

## § 50-1.3



**SLOPE PERCENT GRADE** — The vertical change in the elevation of the ground surface (rise) divided by the specific horizontal distance (run) multiplied by 100. <sup>171</sup>

**STORMWATER BEST MANAGEMENT PRACTICES (BMP)** — Tools used to prevent or reduce stormwater runoff and/or associated pollutants as determined by professional associations, State of Michigan, or Federal government, such as the Michigan Low Impact Development Manual.

**STORMWATER RUNOFF** — Runoff and any other surface water drainage that flows into natural or man-made drainageways.

**STORY, GROUND** — Also referred to as "ground floor." The first floor of a structure that is level to or elevated above the finished grade, measured at the front and corner facades. This excludes partially aboveground basement areas.

**STORY, HALF** — A floor located partially below grade and partially above or a floor located within the roof structure facing that has transparency facing a street.

**STORY, UPPER** — The floors of a structure located above the ground story. Also referred to as "upper floor."

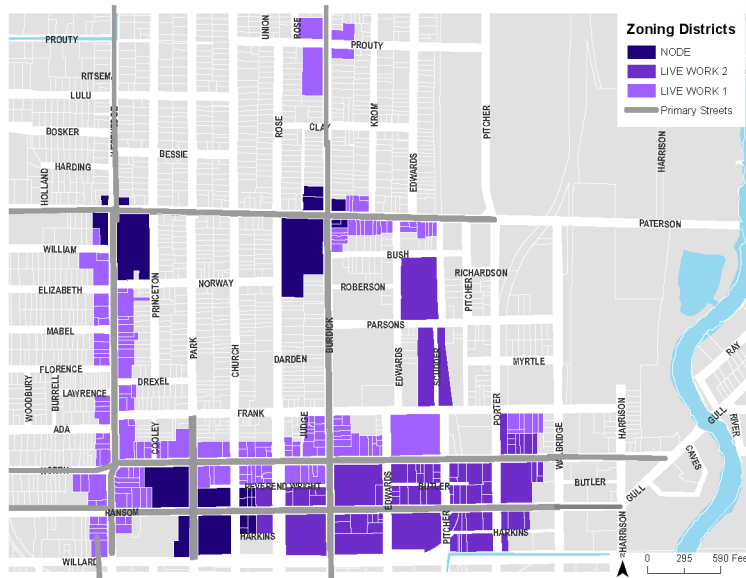
**STREET, CONNECTOR** — Links neighborhoods and institutions together. Transit, on-street bicycle facilities such as protected lanes or paint-designated lanes, and on-street parking may all be present. Sidewalks and upgraded crossings at key intersections provide for pedestrians along this often busy, very mixed-use street. Driveways for vehicular access to properties are expected, but limited through key neighborhood commercial nodes and corridors. A center turn lane maybe be required. This street type balances all travel modes. For additional information, refer to the Connected City Chapter of the 2025 Master Plan.

**STREET, MAIN** — Typically found downtown surrounding priority streets, it serves intensive, active mixed-use blocks. A street type with slow vehicular traffic, regular pedestrian crossings and wide sidewalks. Sidewalks are improved with streetscape, lighting, and wayfinding signage to support pedestrian movements. On-street parking and on-street bicycle facilities are both common. Driveway access to adjacent properties should be limited to prevent pedestrian-vehicle conflicts. The priority user is the pedestrian. For additional information, refer to the Connected City Chapter of the 2025 Master Plan.

**STREET, NEIGHBORHOOD** — This street type typically has slow vehicular traffic, limited to no transit service, and bicycle facilities that are incorporated into the roadway with signed routes or sharrows. Regular driveway access is excepted on this street type. On-street parking serves the adjacent land uses which can range from industrial to commercial to residential. In residential blocks, landscaped curb lawns and street trees are common; there may not be sidewalk on both sides of the street in this setting. For additional information, refer to the Connected City Chapter of the 2025 Master Plan.

**STREET, PRIMARY** — A street designated as having priority over other streets in terms of setting the front lot line, locating building entrance, and facade treatment. On corner lots, the primary street is determined by the street type with the following order of priority: priority street, main street, connector street, and neighborhood street. When a lot fronts three or more streets and/or two or more of the same street type, the primary street will be designated by the City Planner through site plan review.

**171. Editor's Note: The former definition of "slope, toe of," which immediately followed this definition, was repealed 8-16-2021 by Ord. No. 2037. See now the definition of "toe of slope."**



**Figure 1.3-2 Primary Street Map**

**STREET, PRIORITY** — Downtown street type with slow vehicular traffic, regular pedestrian crossings and very wide sidewalks. Transit, on-street parking, and on-street bicycle facilities are typical, as is a high level of streetscape, lighting, and wayfinding signage to support active, urban commercial and mixed-use blocks. The priority user is the pedestrian. For additional information, refer to the Connected City Chapter of the 2025 Master Plan.

**STREET, SECONDARY** — A street designated as not having priority over other streets. Secondary streets typically serve as preferred location for vehicular access points, and buildings fronting secondary streets may have a reduction in the facade requirements.

**STREET, SUBURBAN** — Multiple vehicle lanes with higher speeds, this street type often has a center turn lane and no on-street parking. Transit serve this street type and the adjacent uses, which lean toward more intensive commercial or mixed-use projects. Pedestrian and bicyclists move in off-street, facilities separated from the vehicular travel lanes. The priority user is the vehicle. For additional information, refer to the Connected City Chapter of the 2025 Master Plan.

**STREET, TYPES** — The types of rights-of-way and associated treatment of vehicular, bicycle, and pedestrian ways within as illustrated by the 2025 Master Plan. The street types are: priority street, main street, connector street, suburban street, and neighborhood street. Refer to Figure 1.2-2 Street Types Map.

**STRUCTURE, ACCESSORY** — A structure that contains a secondary or accessory use on a lot. Accessory structures are typically smaller in size than the primary structure and located toward the rear of the lot. Refer to § 50-4.5, Accessory uses and structures.

**STRUCTURE, PRIMARY** — A structure that contains the lot's primary use and is located in the front build-to-zone. A lot may contain more than one primary structure. Refer to § 50-5.6, Lot type standards.

**SURFACE, IMPERVIOUS** — Areas covered with surfaces that do not allow at least 40% absorption of water into the ground, including areas for driveways, parking lots, and walkways and structures.

**SURFACE, PERVIOUS** — An area that allows for the absorption of water into the ground or vegetation; also referred to as "permeable area."

**SURFACE, SEMIPERVIOUS** — An area that allows for at least 40% absorption of water into the ground or vegetation. Semipervious materials can include such materials as porous pavement, pavers, crushed stone, or gravel.

§ 50-1.3

THREATENED SPECIES — Any species recognized by the State of Michigan and/or the federal government which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

§ 50-1.4

TOE OF SLOPE — The lowest part of a slope. Refer to Figure 1.3-2, Parts of a Slope. [Added 8-16-2021 by Ord. No. 2037]

TOP OF SLOPE — The highest part of a slope. Refer to Figure 1.3-2, Parts of a Slope. [Added 8-16-2021 by Ord. No. 2037]

TURF GRASS — Any variety of commercial grasses grown and maintained to form turf.

UNDERSTORY — The layer or layers of woody vegetation, including understory trees and shrubs, that naturally grow beneath a tree canopy.

USE, ACCESSORY — May also be referred to as "secondary use." This use typically takes up less space than the principal use and is often located in an accessory structure or in side or rear yards.

USE, PRIMARY — May also be referred to as the "principal use." The dominant use of a lot. It is typically located in the lot's primary structure along the front property line.

VEGETATED BUFFER — A permanent, maintained strip of vegetation designed to help absorb and slow the velocity of surface stormwater runoff, and filter out sediment and other pollutants.

WETLAND DETERMINATION — An on-site investigation to determine whether the presence of water, hydric soils, and wetland vegetation occur in such a manner as to meet the definition of a "wetland."

WILD-TYPE — A straight species native plant that has not been commercially cultivated for a specific characteristic, which provides for natural genetic diversity, disease resistance, climate resiliency, and reliable pollinator habitat.

YOUTH CENTER — Any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

ZONING DISTRICT, BASE — Also referred to as "underlying zoning." The zoning regulations applied to a parcel according to the Zoning Map.

ZONING DISTRICT, OVERLAY — A set of standards placed on a parcel in addition to the standards of the Base Zoning District.

#### § 50-1.4. Nonconformances.

Refer to Chapter 9, Nonconformities, of Appendix A for the management of nonconforming uses of land and nonconforming structures and uses of structures with the following additions.

A. Regulations of Chapter 50 shall be met when:

- (1) Change in use. The use nonconformance exception ends when a change of use will result in a 50% or greater change in capacity or intensity, such as an increase in gross floor area, seating, or residential units.
- (2) Change in structure. The structural nonconformance exception ends when the associated structure is modified to change the gross floor area by 50% or more.

B. Nonconforming site characteristics. Site characteristics may continue in accordance with the following:

- (1) Ten percent exception. A site characteristic is not considered nonconforming if the size of the nonconformance is less than 10% of the requirement.
- (2) Change in use. The nonconforming site characteristic exception ends if a change of use will result in a

- § 50-1.4 50% or greater change in capacity or intensity, such as an increase in gross floor area, seating, or residential units. § 50-1.4
- (3) Change in structure. The nonconforming site characteristic exception ends if the associated structure is modified to change the gross floor area by 50% or more.
  - (4) Exception for multitenant signs. Multitenant signs are exempt from this requirement in that an individual or tenant is permitted to install a new sign or change out signage within an existing multiple-tenant sign, provided that the new signage does not increase the amount of nonconformance.
- C. Street-facing facade. When a building located within the build-to zone is renovated, including with no change to the overall square footage of the structure, the regulations of § 50-5.5, Street-facing facades, shall be met when any of the following occur:
- (1) Installation of new entrance or change in location of entrance on a street-facing facade.
  - (2) Change in window location or size on a street-facing facade by 30% or more.
  - (3) Change or replacement of more than 30% of facade materials on a street-facing facade with a different material.



ARTICLE 2  
**Review Bodies**

**(Reserved)**



ARTICLE 3  
Zoning Districts

**§ 50-3.1. Zone Districts.**

Refer to Figure 1.2-1 for the Zoning Map of the following districts.

- A. Neighborhood Node District. Neighborhood Nodes are intended to create walkable, vibrant mixed-use commercial areas in Kalamazoo neighborhoods with a focus on building forms that promote inviting public places. Neighborhood Nodes allow a wide range of commercial uses on the ground floor with commercial and residential uses allowed on upper floors. Neighborhood Node locations can be found in the Master Plan, Future Land Development Map. **[Amended 6-6-2022 by Ord. No. 2049]**
- B. Live-Work 1 District. Live-Work 1 promotes a wide mix of commercial and residential uses in a scale and with a building form compatible with Kalamazoo neighborhoods and corridors. Live-Work 1 standards focus on the building form, specifically along the street, while allowing a flexible list of uses within the building.
- C. Live-Work 2 District. Live-Work 2 is intended to promote a wide mix of uses, including residential, commercial, and craftsman industrial uses. Typically located adjacent to the Downtown or traditional industrial areas, Live-Work 2 is similar to Live-Work 1, but allows for more urban-scaled development.
- D. Downtown 1. Downtown 1 supports the key retail blocks of Downtown Kalamazoo by promoting a mix of uses with the most active permitted on the ground floor. This district is intended for the active, walkable principle blocks that focus on retail, entertainment, and service uses, storefronts, pedestrian-scaled signage, and access to shared parking facilities.
- E. Downtown 2. This district is similar to Downtown 1, but with more flexibility in its form and permitted uses. It is intended for blocks directly adjacent to those in Downtown 1.
- F. Downtown 3. Promotes a wide mix of uses, including residential, commercial, and civic uses in building forms that support the scale and intensity of Downtown Kalamazoo.
- G. Community Commercial District. A Community Commercial District supports medium to large-scale commercial and mixed-use development with a city-wide or regional market focus. This district is typically found on major corridors, such as community connectors, and often near highway access. A wide range of retail, service, and office uses are permitted. Residential uses are permitted with design standards. **[Added 6-6-2022 by Ord. No. 2049]**

**§ 50-3.2. Overlay Zone Districts.**

Refer to Figure 1.2-2, Zoning Overlay District Map,<sup>172</sup> of the following overlay districts.

- A. Natural Feature Protection (NFP) Overlay District. Natural Features Protection (NFP) Overlay District is an overlay district providing additional development standards for parcels containing or adjacent to natural features. Refer to § 50-6.2.

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<sup>172</sup>Editor's Note: Figure 1.2-2, Zoning Overlay District Map, is included in § 50-1.2A.



**ARTICLE 4  
Uses**

**§ 50-4.1. General provisions.**

The following general provisions apply to the uses outlined in Table 4.1-1, Use Table.

- A. Permitted uses. Uses are either permitted by right, permitted with development standards, or permitted if a special use permit is granted from the Planning Commission. **[Amended 6-6-2022 by Ord. No. 2049]**

<b>Table 4.1-1 Use Table</b>							
Use	Node	LV1	LV2	D1	D2	D3	CC
<b>Key:</b>							
<b>P = Permitted</b>							
<b>S = Special Use</b>							
<b>PD = Permitted - Development Standards Required</b>							
<b>Blank cell means the use is not permitted.</b>							
Bed-and-breakfast		P	P	PD	P	P	
Hotel/motel	P	P	P	P	P	P	P
Nursing home/ assisted living/ rehabilitation center/adult foster care		PD	P	PD	P	P	P
Residential (1 and 2 units)	PD	P	PD	PD	PD	P	PD
Residential (3 and 4 units)	PD	P	P	PD	P	P	PD
Residential: Multifamily (5 and more units)	PD	P	P	PD	P	P	PD
Rooming house	PD	P	P	PD	P	P	PD
Transitional residence		P	P			P	PD
<b>Civic/Institutional Uses</b>							
Assembly	PD	P	P	PD	P	P	P
Assembly, religious	S	S	S		P	S	P
College and university	P	P	P		P	P	P

**Table 4.1-1  
Use Table**

Use	Node	LV1	LV2	D1	D2	D3	CC
Hospital		P	P		P	P	P
Library and museum	P	P	P	P	P	P	P
Parks and open space		P	P		PD	P	P
Police and fire station	P	P	P		P	P	P
School		P	P			P	P
<b>Commercial</b>							
Adult regulated use							PD
Agriculture		PD	PD				P
Day care	PD	PD	PD		PD	PD	PD
Entertainment sports (participant - indoor)	P	P	P	P	P	P	P
Entertainment sports (participant - outdoor)		S	S		S	S	P
General retail	P	P	P	P	P	P	P
General services	P	P	P	P	P	P	P
Kennels			PD			PD	P
Office	P	P	P	P	P	P	P
Outdoor sales and storage		S	S				S
Package liquor	PD			PD	PD	PD	PD
Parking (stand alone)		PD	PD		PD	PD	PD
Vehicle service		PD	PD			PD	PD
<b>Industrial</b>							
Craftsman industrial	PD	PD	PD	PD	PD	PD	PD
Industrial			PD				
Warehouse and distribution			S				S

<b>Table 4.1-1 Use Table</b>							
Use	Node	LV1	LV2	D1	D2	D3	CC
<b>Marihuana, Adult-Use Establishments</b>							
Grower							PD
Processor							
Safety compliance		P	P		PD	P	P
Secure transporter							PD
Retailer		PD		PD	PD	PD	PD
Microbusiness			PD				PD
Designated consumption lounge				PD	PD	PD	PD
<b>Marihuana, Medical</b>							
Grower							
Processor							
Safety compliance		P	P		PD	P	P
Secure transporter							PD
Provisioning center		PD		PD	PD	PD	PD

- B. Lot type required. All uses shall be located within a permitted lot type, unless otherwise specified. Refer to Article 5, Zoning Standards: Lot Types, for additional use standards that may differ based on a ground or upper floor location within a building.
- C. Required licenses. Any facility that is required to be licensed by the State of Michigan shall have a valid license at all times. It is a violation of this Code to operate at any time without a valid license.

**§ 50-4.2. Organization.**

The uses listed in the Table 4.1-1 are grouped into general categories and shall be interpreted as follows:

- A. Unlisted similar uses. If a use is not listed, but is similar in character and impact to a use in the permitted, permitted with development standards, or permitted with a special use permit, it may be interpreted by the City Planner as similar.
- B. Unlisted dissimilar uses. If a use is not listed and cannot be interpreted as similar to a listed use, the use is not permitted.

**§ 50-4.3. Use Table.**

Table 4.1-1 outlines the permitted uses by zoning district. Uses are permitted in one of the following ways.

- A. Permitted. Uses in the table noted with "P" are permitted by right in the zoning district(s) in which they are

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listed.

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- B. Permitted, development standards required. Uses in the table noted with "PD" are permitted by right in the zoning district(s) in which they are listed, provided that they are developed with the listed development standards. The development standards listed are intended to manage potential impacts associated with it, making it appropriate in a location where it might otherwise have not been allowed.
- C. Special use. Uses in the table noted with "S" are permitted with the approval of a special use permit from the Planning Commission in the zoning district(s) in which they are listed.

#### § 50-4.4. Use definition and standards.

The following details the uses listed in Table 4.1-1 and describes any development standards necessary.

##### A. Residential/lodging uses.

- (1) Bed-and-breakfast. An establishment providing short-term lodging and service of at least one meal per day to guests. The owner or operator must live on the same lot or a lot directly adjacent to the lot containing the bed-and-breakfast. **[Amended 6-6-2022 by Ord. No. 2049]**
- (2) Hotel/motel: an establishment that permits short-term lodging with or without an in-room kitchen where the rooms are accessed from an interior corridor or hallway (hotel) or exterior passageway (motel). Restaurant, meeting spaces, and retail are commonly associated with this use.
- (3) Nursing home/assisted living/rehabilitation center/adult foster care: residence that provides short- or long-term lodging with services such as meals, personal care, supervision of self-administered medication, medical care, and therapy. This type of facility would not meet the definition of a hospital. In the districts where it is permitted with development standards (PD), the following is required:
  - (a) A rehabilitation center is permitted for up to six persons.
  - (b) In Downtown 1, this use is not permitted on the ground floor.
- (4) Residential: dwelling units located within a primary structure on a lot. In the districts where residential is permitted with development standards (PD), the following applies.
  - (a) In Nodes and Downtown 1, residential units are not permitted in a building's occupied space (refer to the definition of "occupied space" in § 50-1.3). Refer to Article 5, Zoning Standards; Lot Types, for details and exceptions.
  - (b) In Live Work 2, yard - detached lot type is permitted only when it contains two or more units.
  - (c) In Community Commercial (CC), residential is permitted except as follows. **[Added 6-6-2022 by Ord. No. 2049]**
    - [1] Detached, single-unit residential is not permitted.
    - [2] Residential units are not permitted in the ground floor occupied space that directly fronts the front property line.
- (5) Residential, multifamily. Five or more dwelling units located within a primary structure on a lot. In the districts where residential multifamily is permitted with development standards ("PD"), the following standards apply. **[Amended 6-6-2022 by Ord. No. 2049]**
  - (a) Multifamily units are not permitted in a building's ground floor occupied space (refer to § 50-1.3 "occupied space"). Refer to Article 5, Zoning Standards; Lot Types for details and exceptions.
  - (b) In Community Commercial (CC), multiple-family units are not permitted in the ground floor



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occupied space that directly fronts the front property line.

- (6) Rooming house. A type of group living use in which space is let primarily for sleeping purposes, with or without meals, by the owner or agent to persons who are not related to the owner or operator by blood, marriage, or adoption. In the districts where a rooming house is permitted with development standards ("PD"), the following standards apply. **[Amended 6-6-2022 by Ord. No. 2049]**
- (a) Rooming house units are not permitted in a building's ground floor occupied space (refer to § 50-1.3, "occupied space"). Refer to Article 5, Zoning Standards; Lot Types for details and exceptions.
- (b) In Community Commercial (CC), rooming house units are not permitted in the ground floor occupied space that directly fronts the front property line.
- (7) Transitional residence. A residential facility that provides temporary accommodations and on-site management, including twenty-four-hour care, for its residents. Transitional residences can accommodate both individuals and families and can serve a variety of populations, such as the homeless, domestic violence victims, or those recovering from addictions. Residency often requires attendance at classes, trainings, or counseling sessions which may occur on-site. Residents typically do not keep personal vehicles on site. In districts where a transitional residence is permitted with development standards ("PD"), the following standard applies. **[Amended 6-6-2022 by Ord. No. 2049]**
- (a) In Community Commercial (CC), transitional residence units are not permitted in the ground floor occupied space that directly fronts the front property line.

B. Civic/institutional uses.

- (1) Assembly: a use that has organized services, meetings, or programs to educate, entertain, or promote discussion amongst the community. It can be a public or private facility. Examples of assembly include a club, lodge, theater or community center. In the districts where assembly is permitted with development standards (PD), the following is required:
- (a) Private membership. Clubs and lodges and other similar uses with limited hours or private membership are not permitted in the ground floor occupied space of the ground floor in Node Districts.
- (b) Downtown 1. Assembly uses are not permitted in the occupied space of the ground floor.
- (2) Assembly, religious: an assembly use that focuses on religion, a house of worship. Residential uses accessory to the religious assembly use, such as convent, rectory, or caretaker's residence, are permitted with this use. In the districts where religious assembly is permitted with a special use permit (S) or permitted with development standards (PD), the following standards apply.
- (a) Facilities that accommodate fewer than 50 persons are permitted without obtaining a special use permit.
- (3) College and university: an educational institution authorized to award associate, baccalaureate, or other higher degrees and certificates.
- (4) Hospital: a state-licensed facility providing in-patient accommodations; a wide range of medical and surgical care; and other in-patient health services for sick or injured persons. Permitted secondary uses with this type of facility may include laboratories, outpatient department, training facilities, central services, offices, residences, dining areas, and retail.
- (5) Library and museum: an establishment housing educational, cultural, artistic, or historic information resources, and exhibits that is open to the public. Permitted secondary uses with this type of facility

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include retail space, food sales, dining, and meeting rooms.

- (6) Parks and open spaces: an area of land designed and equipped for passive or active recreation or open air gathering. In the districts where parks and open spaces are permitted with development standards (PD), the following standards apply.
  - (a) In the D2 District, special design attention should be given to the street wall and character of a block when locating and designing a park and open space.
- (7) Police and fire stations: a facility that provides protection to a district or entity according to fire, life, and safety code sections. Permitted secondary uses with this type of facility include storage of equipment, indoor and outdoor parking of vehicles, offices, and residences. Police and fire stations are exempt from any entrance bay and vehicle access standards noted in § 50-5.6, Lot type standards; the use of these standards is encouraged to support this use blending within the neighborhood location.
- (8) School: a public or private education facility, including elementary, middle, and high schools. Schools may include space for classrooms, laboratories, gymnasium, pools, theaters, dining services, and outdoor athletic or recreational facilities.

#### C. Commercial.

- (1) Adult regulated uses. **[Added 6-6-2022 by Ord. No. 2049]<sup>173</sup>**

- (a) Purpose.

[1] In the development and execution of this ordinance, it is recognized that there are some uses, commonly known as adult uses or sexually oriented businesses, which, because of their very nature, have serious objectionable operational characteristics. The impacts of these objectionable characteristics are exacerbated when several adult uses are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential use or zone, religious assembly, school, park, playground or public recreational area, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to prevent these adverse effects and to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The controls contained within this ordinance are for the purpose of preventing the negative secondary effects associated with adult uses and to prevent a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood.

[2] It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

- (b) Findings.

[1] This ordinance is based on evidence of the adverse secondary effects of adult uses that are within the common knowledge of municipalities and is widely reported in judicial opinions, media reports, land use studies, and crime impact reports made available to the City

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<sup>173</sup>Editor's Note: This ordinance also redesignated former Subsection C(1) through (11) as Subsection C(2) through (12).

Commission, several of which are set forth in this ordinance. Additionally, the City Commission relies on repeated judicial findings of municipalities' reasonable reliance on this body of secondary effects evidence to support time, place, and manner regulations of sexually oriented businesses. The City Commission relies upon and incorporates the findings of secondary effects discussed in the following nonexhaustive list of cases from the U.S. Supreme Court: *Pap's A.M. v City of Erie*, 529 U.S. 277 (2000); *City of Los Angeles v Alameda Books, Inc.*, 122 S. Ct 1728 (2002); *City of Renton v Playtime Theatres, Inc.* 475 U.S. 41 (1986); *Young v American Mini Theatres*, 426 U.S. 50 (1976); *Barnes v Glen Theatre, Inc.*, 501 U.S. 560 (1991); *FW/PBS, Inc. v City of Dallas*, 493 U.S. 215 (1990); *California v LaRue*, 409 U.S. 109 (1972).

- [2] The City Commission also relies on relevant decisions of federal appellate and trial courts: *DLS, Inc. v City of Chattanooga*, 107 F 3d 403 (6th Cir. 1997); *Currence v City of Cincinnati*, 2002 U.S. App. LEXIS 1258; *Broadway Books v Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v Nichols*, 137 F 3d 435 (6th Cir. 1998); *DejaVu v Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v City of Dayton*, 7923 F 2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v City of Akron*, 40 F 3d 129 (6th Cir. 1994); *O'Connor v City and County of Denver*, 894 F 2d 1210 (10th Cir. 1990); *DejaVu of Nashville, Inc., et al v Metropolitan Government of Nashville and Davidson County*, 274 F 3d 377 (6th Cir. 2001); *ZJ. Gifts D-2, LLC v City of Aurora*, 136 F 3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v City of Rochester*, 225 F 3d 1413 (Eighth Cir. 1994); *World Wide Video of Spokane, Inc. v City of Spokane*, 227 F 3d 1143 (E.D. Wash. 2002); *Threesome Entertainment v Strittmother*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Kentucky Restaurant Concepts, Inc v City of Louisville and Jefferson County*, 209 F. Supp. 2d 672 (W.D. Ky. 2002).
- [3] Additionally, the City Commission expressly relies upon Michigan cases relating to adult businesses, municipal regulatory authority, and public nuisances including, but not limited to, the following cases: *Rental Property Owners Association of Kent County v City of Grand Rapids*, 455 Mich 246, 566 NW2d 514 (1996); *Michigan ex rel Wayne County Prosecutor v Dizzy Duck*, 449 Mich 353, 535 NW2d 178 (1995); *City of Warren v Executive Art Studio*, 1998 Mich App LEXIS 2258 (1998); *Tally v City of Detroit*, 54 Mich App 328 (1974); *Jatt, Inc v Clinton Township*, 224 Mich App 513 (1997).
- [4] The City Commission notes that media reports document the harms associated with adult businesses as well: See, e.g., "Muskegon Man Convicted in Beating Death of Adult Bookstore Manager," *Associated Press State & Local Wire*, Sept. 9, 1999; Katie Merx, "X-Rated Inkster Theater Razed: Officials, Cops, Residents Cheer Demolition of Melody, An Embarrassment for 22 Years," *The Detroit News*, August 19, 1999, at D3 (discussing documented sexual activity in and around adult business); Craig Garrett, "Suburbs Declare War on Smut Shops." *The Detroit News*, June 30, 1999, at A1 (describing how adult theater patrons would solicit young people in the area for sex); Justin Hyde, "Warren Leaders Want to Pursue Product Liability Against Porn Shop," *Associated Press State & Local Wire*, Feb. 4, 1999 (child rapist arrested in peep show establishment).
- [5] The City Commission further relies on reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona — 1984; Minneapolis, Minnesota-1980; Houston, Texas — 1997; Indianapolis, Indiana — 1984; Amarillo, Texas — 1977; Garden Grove, California — 1991; Los Angeles, California — 1977; Whittier, California — 1978; Austin, Texas — 1986; Seattle, Washington — 1989; Oklahoma City, Oklahoma — 1986; Cleveland, Ohio — 1977; Dallas, Texas — 1997; McCleary Report, Alliance, Ohio — 2002; Tucson, Arizona — 1990; Testimony, Warner-Robins, Georgia — 2000; St. Croix County, Wisconsin — 1993; Bellevue, Washington —

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1998; Newport News, Virginia — 1996; St. Cloud, Minnesota — 1994; New York Times Square Study — 1994; Phoenix, Arizona — 1995-1998; and also on findings of physical abuse from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence" by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View" by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota). Based on the cases and reports documenting the adverse impact of adult businesses, the City Commission finds:

- [a] Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on property values, urban blight, pornographic litter, and sexual assault and exploitation.
  - [b] Sexual acts, including masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, especially those that provide private or semi-private booths, rooms, or cubicles for viewing films, videos, or live sexually explicit shows.
  - [c] Each of the foregoing negative secondary effects constitutes a harm that the City has a substantial governmental interest in preventing and/or abating.
- (c) Applicability. The following adult regulated uses are subject to these controls:
- [1] Adult arcade or mini-motion-picture theaters;
  - [2] Adult bookstores, adult novelty stores, or adult video stores;
  - [3] Adult booths;
  - [4] Adult cabarets;
  - [5] Adult motels;
  - [6] Adult motion-picture theaters;
  - [7] Adult outdoor motion-picture theaters;
  - [8] Adult model studios;
  - [9] Adult physical culture businesses;
  - [10] Adult theaters; and
  - [11] Adult personal service businesses.
- (d) Conditions. All adult regulated uses shall comply with all of the following conditions:
- [1] No person or entity shall operate or maintain or cause to be operated or maintained an adult regulated use within 750 feet of:
    - [a] A religious assembly;
    - [b] A public or private educational facility, including but not limited to, child day-care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools,

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vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. School shall include the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

- [c] Family day-care homes or group day-care homes;
  - [d] An entertainment use that has as its principal use children or family entertainment as demonstrated by business activity that caters predominantly to on-site patronage by minors and is open for such business at least 25 hours per week;
  - [e] A lot or parcel of land in any zone primarily devoted to a residential use;
  - [f] Any other adult regulated use as defined in this chapter.
  - [g] A public park or recreational area that has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball, tennis court, wilderness areas, or other similar public land within the City that is under the control, operation, or management of the City or other unit of government;
  - [h] A zoning district boundary of a residential district as defined in the City Zoning Ordinance.
- [2] For purposes of the uses listed in Subsection C(1)(d)[1][a] through [f] above, the distance limitations above shall be measured in a straight line without regard to intervening structures or objects from the lot occupied by the adult regulated use to the nearest point of the lot occupied by any of the uses so listed in Subsection C(1)(d)[1][a] through [f].
  - [3] For purposes of Subsection C(1)(d)[1][g] and [h] the distance limitations shall be measured in a straight line without regard to intervening structures or objects from the property line of the lot occupied by the adult regulated use to the nearest point of the property line occupied by the public park or other recreational areas so listed in Subsection C(1)(d)[1][g] or the zoning district boundary of the residential district as provided in Subsection C(1)(d)[1][h].
  - [4] No building, premises, structure, or other facility that contains any adult regulated use shall contain any other kind of adult regulated use. The Zoning Board of Appeals may grant permission for more than one adult regulated use to operate in a single building, provided that an equal or greater number of adult regulated uses are removed from elsewhere in the City. The location where an adult regulated use is removed pursuant to this section shall not be reused for any adult regulated use in the future. If the Zoning Board of Appeals grants permission for more than one adult regulated use to operate in a single building, it shall not be construed to be a violation of Subsection C(1)(d)[1][f].
  - [5] Adult regulated uses shall comply with all sign requirements in § 50-4.4C(1), Adult regulated uses, and in Chapter 7, Signs, of Appendix A.
  - [6] No advertisement, display of product or entertainment on the premises, signs or other exhibits that display "specified sexual activities" and/or "specified anatomical areas" shall be displayed in window areas or other area where the same can be viewed by pedestrians and motorists on any street, sidewalk, or other public place.
  - [7] No person shall reside in, or permit any person to reside in, the premises of an adult regulated use.
  - [8] No person operating an adult regulated use shall knowingly permit any person under the age of 18 to be on the premises of said business, either as an employee or as a customer.

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- [9] No person shall become the lessee or sublessee of any property for the purpose of using said property for an adult regulated use without the express written permission of the owner of the property for such use and appropriate approvals from the City of Kalamazoo.
- [10] The building and site, including building openings, entries, exits and windows, shall be designed, constructed, and maintained so that material, entertainment, and/or performances that display "specified sexual activities" and/or "specified anatomical areas" cannot be observed by pedestrians and motorists on any street, sidewalk, or public right-of-way, or from an adjacent land use.
- [11] The adult regulated use shall satisfy all requirements for a full site plan and all landscaping requirements of the City Zoning Ordinance. The adult regulated use shall also demonstrate that the site meets all of the traffic and access management standards of the City of Kalamazoo. The site plan shall include a diagram that shows all land use zoning districts and any of the uses described in Subsection C(1)(d)[1] above which are located within 750 feet of the proposed adult regulated use.
- [12] No adult regulated use shall operate until it has satisfied all provisions of this chapter, all other applicable provisions of the Zoning Ordinance, and any other federal, state or local regulations.
- (e) Change of use by lessee or sublessee. No lessees or sublessee of any property shall convert that property from any other use to an adult regulated use unless the location of the property conforms to the standards in Subsection C(1)(d) above.
- (f) Certain uses exempt. The following uses are exempt from the provisions of the terms and conditions of this chapter and are subject to the other provisions of the City Zoning Ordinance, and the following uses shall not be construed to be included in any of the definitions of this chapter:
  - [1] Accredited hospitals, nursing homes, sanitariums or other licensed health care facilities, physicians, surgeons, chiropractors, osteopaths, physical therapists, registered nurses, and other establishments or professionals duly licensed under the laws of the state while engaged in the activities for which they are so licensed.
  - [2] Barbers, beauticians, barber shops, and beauty parlors licensed under the laws of the state that also offer massages, provided that massages involved are limited to the head, shoulders, scalp, neck, hands, and feet. Such establishments that also provide activities that fall under the definition of "adult personal service business" in this chapter shall, however, be governed by the provisions, terms, and conditions of this chapter.
  - [3] Public and parochial school and college or professional athletic coaches and trainers while acting within the scope of their school employment; and
  - [4] Professional massage therapy enterprises, where each massage therapist has met the following criteria:
    - [a] Proof of graduation from a school of massage licensed by the State of Michigan or another state with equivalent standards, consisting of at least 500 classroom hours of instruction and practical training that include 300 hours of theory and practice of massage therapy, 100 hours of anatomy and physiology, and 100 hours of elective subjects; or proof of completion of a comprehensive course of study in a massage training program at an American community college or university that requires at a minimum the training and curriculum above; and
    - [b] Proof of current professional membership in the American Massage Therapy Association, International Myomassethics Federation, Associated Bodywork and

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Massage Professionals, or other national massage therapy organization with comparable prerequisites for certification, including liability insurance and testing.

- [5] Nonprofit organizations operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, or athletic facilities that are used primarily for the welfare of the residents of the area.
  - [6] Unlawful activities. Nothing contained in this chapter is intended, or shall be construed, to permit or authorize activities that are unlawful under state law or City ordinance.
- (2) Agriculture: growing of food crops indoors or outdoors for personal use, donation, or sale (on or off site); this excludes the growth of marihuana plants for medicinal or recreational purposes. In the districts where agriculture is permitted with development standards (PD), the following standards apply.
- (a) Size. The maximum lot size is 10,000 square feet.
  - (b) Lot type. No lot type is required unless a hoop house, greenhouse, or farm stand is constructed, then § 50-5.6G, Outdoor market lot type, applies.
  - (c) Other secondary buildings: sheds, garages, and other secondary buildings not noted in § 50-4.4C(1)(b) shall follow the standards for accessory structures. Refer to § 50-4.5B.
  - (d) Intensity. Use of outdoor farm machinery is not permitted.
- (3) Day care: a use providing care, protection, and supervision for children or adults on a regular basis away from their primary residence for periods of less than 24 hours. In the districts where a day care is permitted with development standards (PD), the following is required.
- (a) Outdoor play area. At least one outdoor play area will be provided as follows:
    - [1] Size. The size of this play area will be measured at a rate of 100 square feet for each child the facility is permitted to have at maximum attendance.
    - [2] Enclosure requirement. The play area must be enclosed on all sides by building or fencing.
  - (b) In-home day-care facilities. Day-care facilities located in a residence, also referred to as an "in-home day-care facility," containing seven or more participants require a special use permit.
- (4) Entertainment and sports: an establishment that provides sports and recreation activities for participants. These may occur indoors, including such indoor facilities as bowling alleys, escape rooms, pool, billiards, arcade, and outdoors, such as mini golf, ropes courses, swimming pools, and driving ranges. In the districts where entertainment and sports is permitted with a special use permit (S), outdoor facilities using an outdoor market lot type require a special use permit.
- (5) General retail: a category of uses involving the sale of goods and merchandise. General retail includes such uses as those listed in Table 4.4-1A. **[Amended 5-4-2020 by Ord. No. 2004]**

Table 4.4-1A Examples of General Retail Uses
Apparel and accessories
Art, craft, hobby store
Automotive supply (no service)
Bakery
Bicycle, scooter, moped sales

Table 4.4-1A Examples of General Retail Uses
Book magazine, newspaper
Convenience store
Drugstore/pharmacy
Florist
Home furnishing and accessories
Grocery store, specialty foods
Hardware store
Office supplies
Paper, stationary store
Pet and pet supply shop
Sporting goods sales and rental
Toy shop
Video games and electronic sales

- (6) General services. A category of uses that provides patrons services and often retail products related to those services. General services includes such uses as those listed in Table 4.4-1B. **[Amended 5-4-2020 by Ord. No. 2004]**

Table 4.4-1B Examples of General Service Uses
Animal board, day care (no outdoor kennels)
Bank, financial services
Catering
Dance or music studio
Dry cleaning, laundromat
Eating and drinking establishment, cafe, coffee shop, brewpub, tavern, lounge
Fitness (example: gym, yoga, Pilates, dance studio)
Framing
Funeral home
Locksmith
Mail system, copying, printing
Medical services, optical, urgent care
Pet grooming
Personal services (salon, spa, barbershop)
Repair of small goods, household goods, electronics
Tailor and seamstress



Table 4.4-1B Examples of General Service Uses
Tattoo, piercing
Training center
Travel agency

- (7) Kennels: care of domestic and small animals, such as dogs and cats, that can include day or overnight care. Kennels can be located inside a building or outside and may also provide grooming and training services. In the districts where a kennel is permitted with development standards (PD), the following standards shall apply:
  - (a) Outdoor facilities. Outdoor kennels are not permitted.
  - (b) Accessory use. In Downtown 3 (D3), kennels are only permitted as an accessory use to a pet store, pet adoption center, veterinary service, or similar use.
- (8) Office: a category of uses that involve the transactional affairs of a profession, service, industry, or government. Patrons of these uses typically have set appointment or meeting times; these businesses do not typically rely on walk-in customers.
- (9) Outdoor sales and storage: a use that involves the sale, rental, and minor repair of items where the majority of the goods are stored or displayed outdoors. This includes such uses as sale and rental of vehicles with less than 10,000 pounds gross cargo weight, motor homes, and boats and the sale of building or landscape materials, such as plants, gravel, or rocks. In the districts where outdoor sales and storage is permitted with special use permit (S), the following standards apply:
  - (a) Screening. Storage of all outdoor items must be screened from view from side and rear property lines; storage of loose materials such as rock, gravel, or soil must be additionally screened from the front and corner side property lines.
  - (b) Structure. A building is required to house the office, sales management, on-site security, or other similar functions.
  - (c) Structure location. When the outdoor market lot type is utilized, the front facade of the building shall be located within 10 feet of the front property line. Refer to § 50-5.6G, Lot type: outdoor market.
- (10) Packaged liquor: a retail establishment licensed by the Michigan Liquor Control Commission selling packaged alcoholic liquors, including beer, wine, and spirituous liquors, for consumption off-site. This use does not include establishments meeting the definition of an eating and drinking establishment or grocery stores. In the districts where packaged liquor is permitted with development standards (PD), the following is required:
  - (a) A minimum distance of 2,460 feet is required between locations of packaged liquor uses.
  - (b) A minimum distance of 500 feet is required from parcels containing a religious assembly and school use.
  - (c) Calculations to determine the required distance are made along the adjacent street center lines by measuring between two fixed points located on the center line(s) that are determined by drawing perpendicular lines from the closest edge of the building containing the use in question to the center line of the adjacent street.
- (11) Parking lot (stand alone): a lot in which the primary use is parking of vehicles for public use or private

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use of adjacent businesses and residences. In the districts where parking lot is permitted with development standards (PD), the following is required:

- (a) Parking lots may not be used as towing service storage and storage for inoperable vehicles.
- (b) Corner lot. In Live Work 1 (LW1), Live Work 2 (LW2), Downtown 2 (D2), and Downtown 3 (D3), a parking lot is not permitted on a corner lot.
- (c) Priority streets. A parking lot is not permitted on a lot that fronts a priority street.
- (d) Required treatment when fronting on a street.
  - [1] Additional approval. A parking lot is not permitted on a lot that fronts a main or connector street without a special use permit unless it is directly adjacent to the building that it serves.
  - [2] Fence. Fencing up to 42 inches in height is permitted in the landscape buffer along a street. Refer to Appendix A, § 6.3, Screening and Fences, for more information on fences.

(12) Vehicle services: a category of uses that involve the servicing of vehicles and/or the sale of fuel. General retail is often associated with vehicle service uses. This category includes vehicle service shops, car wash, and gas stations. In the districts where vehicle service is permitted with development standards (PD), the following standards apply:

- (a) Use limitations.
  - [1] Gas stations.
    - [a] Gas stations require a special use permit.
    - [b] Sale of packaged liquor at gas stations is permitted, but must adhere to the development standards required for the packaged liquor use. Refer to § 50-4.4C(10).
    - [c] Gas stations are not permitted in Live Work 2.
  - [2] Car wash. A car wash requires a special use permit.
    - [a] Outdoor vacuuming is not permitted on lots adjacent to an open space, park, or preserve. Outdoor vacuuming is not permitted on lots adjacent to a residential zoning district.
    - [b] Car washes are not permitted in Live Work 2.
- (b) Vehicle bays. Bays may not face a primary street.
- (c) Outdoor activities.
  - [1] Outdoor vacuuming areas are permitted in the side and rear yards.
  - [2] Washing areas are not permitted outside.
  - [3] Repair or service activities or equipment are not permitted outside.
  - [4] Outdoor storage of vehicles awaiting service is not permitted. Vehicles awaiting pickup are permitted on site for up to three days and shall be located in the rear or side yard.
- (d) Screening. Perimeter landscaping or fencing is required along side and rear yards.
- (e) Oversized vehicles. Services for semi trucks and other oversized vehicles is not permitted.
- (f) Lot types. Gas stations shall follow the outdoor market lot type and have the front facade of the building located within the build-to zone. Refer to § 50-5.6G, Lot type: outdoor market.

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D. Industrial.

(1) Craftsman industrial.

- (a) A use involving small-scale manufacturing, production, assembly, and/or repair that includes a showroom or retail space open to the public with no environmental or nuisance impact; may also be referred to as "maker spaces." Refer to Table 4.4-2 for examples of uses permitted in craftsman industrial.

Table 4.4-2 Examples of Craftsman Industrial
Apparel, accessories, and finished fabrics
Art, glass, textiles, ceramics, pottery, woodworking
Brewing, distilling, and roasting
Commercial copying and printing
Construction, special trades
Electronic assembly
Food preparation and production: bakery, beverages, desserts, canning, preserving, pasta, dairy, etc.
Furniture and fixtures, household textiles, home furnishing and accessories
Metal products: engraving, welding
Music instruments, recording studio
Small good manufacturing and repair

- (b) In the districts where craftsman industrial is permitted with development standards (PD), the following standards apply:
  - (c) Retail component.
    - [1] At least 10% of the floor area must be public showroom or retail space.
    - [2] The retail and/or showroom component shall be located along the front facade of the building and utilize a storefront or stoop entrance treatment. Refer to § 50-5.5, Street-facing facades.
  - (d) Size requirements. Maximum facility size of 10,000 square feet is permitted in Live-Work 1, Node, Downtown 1, and Downtown 2 Districts.
  - (e) Outdoor storage. Outdoor storage of goods is permitted in Live-Work 2 and Community Commercial (CC) with Craftsman Industrial uses provided the area used for storage is less than or equal to 5% of the site's lot area. Refer to § 50-4.5C(7) for additional requirements. **[Amended 6-6-2022 by Ord. No. 2049]**
- (2) Industrial: a category of uses that allow for the production, processing, assembling, and packaging of goods. This category of uses does not have environmental or nuisance conditions that are detectable at the property lines of the site. Associated with the category are uses such as offices, warehousing, and loading or service bays. In the districts where industrial is permitted with development standards (PD), the following standards apply:
- (a) Entrance bays. Entrance bays are not permitted on facades facing primary streets unless they are located more than 50 feet beyond the building's front facade.

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## (b) Outdoor activities.

[1] Fuel pumps are not permitted.

[2] Outdoor storage is permitted. Refer to § 50-4.5C(7) for additional requirements.

(c) Size. The maximum size of a manufacturing facility is 20,000 square feet. This calculated area excludes office, showroom, or retail space. Larger facilities require review through a special use permit.

(3) Warehouse and distribution: an industrial use involving significant commercial vehicle access and large-scale storage, both indoors and outside. In the districts where warehouse and distribution is permitted with special use permit (S), the following standards apply:

(a) Size requirements. The maximum facility size is 20,000 square feet.

(b) Outdoor activity. Fuel pumps and outdoor storage are permitted as follows:

[1] Must be located in the rear yard.

[2] Must be screened from all adjacent uses according to § 6.2, Landscaping and Open Spaces, in Appendix A.

[3] Outdoor storage shall follow the standards in § 50-4.5C(7).

(c) Vehicle entrance bays. Entrance bays are not permitted on facades facing primary streets.

E. Adult-use marihuana. A category of uses permitting adult use establishments licensed pursuant to the MRTMA and Chapter 20B of the City ordinances.

(1) General provisions. The following apply to all adult use marihuana establishments, unless otherwise noted.

(a) General requirements.

[1] All location criteria and required separation distances apply to both new marihuana establishments and to any proposed change in the location of an existing marihuana establishment.

[2] All location criteria and required separation distances apply to both marihuana establishments and similar protected uses located in adjacent governmental jurisdictions.

[3] A marihuana establishment is prohibited from operating in any residential zoning district or in a residential unit.

[4] Drive-throughs are not permitted with any establishment. **[Added 6-6-2022 by Ord. No. 2049<sup>174</sup>]**[5] Co-location. Where permitted, marihuana establishments may operate from a location shared with an equivalent licensed marihuana establishment. The following are required for this co-location. **[Amended 6-6-2022 by Ord. No. 2049]**

[a] Entrances to each establishment shall be physically separated.

[b] Each establishment must have distinct and identifiable areas designated within the structure.

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- [c] Each establishment suite or tenant space must have a separate address.
- [d] Each establishment must have separate inventory, recordkeeping, and point of sale operations.
- [6] A licensee may not operate a marihuana establishment at any place in the City other than the address provided in the application on file with the City Clerk.
- [7] A licensee must operate the licensed establishment in compliance with all applicable state and City regulations for that type of establishment.
- (b) Location criteria. All marihuana establishment types must meet the following location criteria, except safety compliance operations:
  - [1] Required distance.
    - [a] A marihuana establishment must not operate within 1,000 feet of a preexisting private or public school, providing education in kindergarten or any grades 1 through 12.
    - [b] A marihuana establishment must not operate within 500 feet of a preexisting state-licensed childcare center, public playground, public pool, or youth center.
  - [2] Measuring the required distance. The required distance is measured in a straight line from the nearest property line of a protected use to the nearest portion of the building or unit in which the marihuana establishment is located.
- (c) Shared location. Marihuana establishments may operate from a location shared with an equivalent licensed marihuana facility, except where a separation distance is required. **[Amended 6-6-2022 by Ord. No. 2049]**
- (2) Grower establishments. Growers are licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments. The three grower license types are Class A (authorized to grow up to 100 plants); Class B (authorized to grow up to 500 plants); and Class C (authorized to grow up to 2,000 plants). An excess grower holds five Class C adult use marihuana grower and at least two Class C medical marihuana grower licenses. In the zoning districts where a grower establishment is permitted with development standards, the following standards apply:
  - (a) Class A grower establishments are permitted as follows:
    - [1] In Zones Community Commercial (CC), Limited Manufacturing (M-1), and General Manufacturing (M-2).
    - [2] In Zone CC, all grow operations must be conducted within an enclosed building.
  - (b) Class B and Class C grower establishments are permitted in Zones Limited Manufacturing (M-1), and General Manufacturing (M-2).
  - (c) Excess grower establishments are permitted in Zone General Manufacturing (M-2).
  - (d) Permitted outdoor activities. All grower facilities and operations must be within an enclosed building, except cultivation may occur in an outdoor area under the following conditions.
    - [1] Area is contiguous with the facility building.
    - [2] Area is fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view.
    - [3] Marihuana plants cannot grow above the height of the fence or barrier.

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- [4] The fence is secured and only accessible to authorized persons and emergency personnel.
  - [5] Area is located at least 500 feet from a residential zone district.
- (3) Processor establishments. Processors are licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments. In the zoning districts where a processor establishment is permitted with development standards, the following standards apply:
- (a) Permitted in Limited Manufacturing (M-1) and General Manufacturing (M-2).
  - (b) All processing operations must be conducted within an enclosed building.
- (4) Safety compliance operations establishment. Safety compliance establishments are licensed to test marihuana, including certification for potency and the presence of contaminants. In the districts where safety compliance facility is permitted with development standards, the following standards apply:
- (a) Permitted in the following zones. Community Commercial (CC), Live Work 1 (LW-1), Live Work 2 (LW- 2), Downtown 3 (D3), Business Technology, and Research (BTR), Limited Manufacturing (M-1), and General Manufacturing (M-2).
  - (b) Street type limitations. In Downtown 2 (D2), a safety compliance facility cannot be located in the occupied space along a priority street side of a building.
- (5) Secure transporter establishment. Secure transporter establishments are licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments. In the zoning districts where secure transporter establishment is permitted with development standards, the following standards apply:
- (a) Permitted in Zones Community Commercial (CC), Limited Manufacturing (M-1), and General Manufacturing (M-2).
  - (b) In Zone CC, warehousing activity is only permitted as an accessory use to the principal permitted secure transporter use.
- (6) Retailer establishment. Retailer establishments are licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older. In the zoning districts where a retailer establishment is permitted with development standards, the following standards apply:
- (a) Permitted in the following zones:
    - [1] Live Work 1 (LW1) when located on a suburban, connector, or main street street type.
    - [2] Downtown 1 (D1), Downtown 2 (D2), Downtown 3 (D3). In D3, only when located on a priority, suburban, connector, or main street street type.
    - [3] Community Commercial (CC).
  - (b) Permitted in Zones Limited Manufacturing (M-1) and General Manufacturing (M-2) when operated as part of a single establishment engaged in grower and processor operations.
  - (c) All retailer activities must be conducted within an enclosed building.
  - (d) A retailer is not permitted on the same property or parcel or within the same building where any of the following are located:
    - [1] A package liquor store.

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- [2] A convenience store that sells alcoholic beverages.
- [3] A fueling station that sells alcoholic beverages.
- (e) A separation distance of 1,000 feet is required from any other provisioning center or retailer, except when the retailer is co-located with a provisioning center, as provided by state regulations and this ordinance, and except in the following situations. **[Amended 6-6-2022 by Ord. No. 2049]**
  - [1] A separation distance of 500 feet is permitted when an applicant or a group of applicant-owners with 51% or more ownership in the retailer establishment is one of the following:
    - [a] A City of Kalamazoo resident living within Census Tracts 1, 2.02, 3, 9, and 10 for the past three years.
    - [b] A City of Kalamazoo resident with a marihuana conviction that does not involve distribution of a controlled substance to a minor.
  - [2] A location shared with a licensed provisioning center.
- (f) A retailer is not allowed within 660 feet of the following intersections: East Cork Street and South Burdick Street, the intersection of East Cork Street and Portage Street, and the intersection of West Ransom Street and North Westnedge Avenue.
- (g) The consumption of marijuana products is not permitted on the premises of at a retail establishment. **[Amended 6-6-2022 by Ord. No. 2049]**
- (7) Microbusiness establishment. Microbusiness establishments are licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments. In the zoning districts where a microbusiness establishment is permitted with development standards, the following standards apply:
  - (a) Permitted in Zones Community Commercial (CC), Live Work 2 (LW-2), Limited Manufacturing (M-1), and General Manufacturing (M-2).
  - (b) In Zones CC and LW-2, the following requirements apply:
    - [1] All business activities must be conducted within an enclosed building.
    - [2] The use of any substances with a flashpoint below 100° F. for processing is prohibited.
  - (c) A separation distance of 500 feet is required from another microbusiness establishment with the following exceptions:
    - [1] A separation distance of 250 feet is permitted when an applicant or a group of applicant-owners with 51% or more ownership in the microbusiness establishment is one of the following:
      - [a] A City of Kalamazoo resident living within Census Tracts 1, 2.02, 3, 9, and 10 for the past three years.
      - [b] A City of Kalamazoo resident with a marihuana conviction that does not involve distribution of a controlled substance to a minor.
    - [2] No separation distance is required within Zones Limited Manufacturing (M-1) or General Manufacturing (M-2).
- (8) Designated consumption establishment. A designated consumption establishment is a commercial space

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that is licensed for the consumption of marihuana products by persons 21 and older. In the zoning districts where a designated consumption establishment is permitted with development standards, the following standards apply.

(a) Permitted in the following zones:

[1] Community Commercial (CC).

[2] Downtown 1 (D1), Downtown 2 (D2), Downtown 3 (D3). In D3, only when located on a priority, suburban, connector, or main street street type.

(b) Indoor activities. Consumption of marihuana products must occur indoors.

(c) A consumption establishment is not permitted on the same property or parcel or within the same building where any of the following uses are located:

[1] A package liquor store.

[2] A convenience store that sells alcoholic beverages.

[3] A fueling station that sells alcoholic beverages.

F. Medical marihuana. A category of uses permitting medical marihuana facilities licensed to operate pursuant to the MMFLA and Chapter 20B of the City ordinances.

(1) General provisions. The following apply to all medical marihuana facilities, unless otherwise noted.

(a) General requirements.

[1] All location criteria and required separation distances apply to both new medical marihuana facilities and to any proposed change in the location of an existing medical marihuana facility.

[2] All location criteria and required separation distances apply to both medical marihuana facilities and similar protected uses located in adjacent governmental jurisdictions.

[3] A medical marihuana facility must not operate in any residential zoning district or in a residential unit.

[4] Drive-throughs are not permitted with any facility. **[Added 6-6-2022 by Ord. No. 2049]**

[5] Co-location. Where permitted, marihuana facilities may operate from a location shared with an equivalent licensed marihuana facility. The following are required for this co-location. **[Added 6-6-2022 by Ord. No. 2049]**

[a] Entrances to each facility shall be physically separated.

[b] Each facility must have distinct and identifiable areas designated within the structure.

[c] Each facility suite or tenant space must have a separate address.

[d] Each facility must have separate inventory, recordkeeping, and point of sale operations.

[6] A licensee may not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk. **[Added 6-6-2022 by Ord. No. 2049]**

[7] A licensee must operate the licensed facility in compliance with all applicable state and City regulations for that type of facility. **[Added 6-6-2022 by Ord. No. 2049]**



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- (b) Location criteria. All marihuana facility types must meet the following location criteria from protected uses, except safety compliance facilities.
  - [1] Required distance. **[Amended 6-6-2022 by Ord. No. 2049]**
    - [a] A marihuana facility must not operate within 1,000 feet of a preexisting private or public school, providing education in kindergarten or any grades 1 through 12.
    - [b] A marihuana facility must not operate within 500 feet of a preexisting state-licensed childcare center, public playground, public pool, or youth center.
  - [2] Measuring the required distance. The required distance is measured in a straight line from the nearest property line of a protected use to the nearest portion of the building or unit in which the marihuana facility is located.
- (c) Shared location. Marihuana facilities may operate from a location shared with an equivalent licensed marihuana establishment, except where a separation distance is required. **[Amended 6-6-2022 by Ord. No. 2049]**
- (2) Grower facility. A licensee that is a commercial entity located in this state that cultivates, dries, trims or cures and packages marihuana for sale to a processor or provisioning center. The three grower license types are Class A (authorized to grow up to 500 plants); Class B (authorized to grow up to 1,000 plants); and Class C (authorized to grow up to 1,500 plants). In the districts where grower facility is permitted with development standards, the following standards apply:
  - (a) Grower facilities are permitted in Limited Manufacturing (M-1) and General Manufacturing (M-2).
  - (b) Permitted outdoor activities. All grower facilities and operations must be within an enclosed building, except cultivation may occur in an outdoor area under the following conditions.
    - [1] Area is contiguous with the facility building.
    - [2] Area is fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view.
    - [3] Marihuana plants cannot grow above the height of the fence or barrier.
    - [4] The fence is secured and only accessible to authorized persons and emergency personnel.
    - [5] Area is located at least 500 feet from a residential zone district.
  - (c) Multiple facilities on a lot. The following applies for multiple facilities on one lot.
    - [1] Except as permitted by state regulatory rules for Class C growers, only one medical marihuana grower facility license is allowed per parcel or lot.
    - [2] Licensees may occupy the same premises if holding separate grower and processor licenses for the premises.
- (3) Processor facility. A licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center. In the districts where processor facility is permitted with development standards, the following standards apply:
  - (a) A processor facility is permitted in Limited Manufacturing (M-1) and General Manufacturing (M-2).

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- (b) Only one medical marihuana processor facility license permitted per parcel or lot.
  - (c) All processing operations must be conducted within an enclosed building.
  - (d) Licensees may occupy the same premises if holding separate grower and processor licenses for the premises.
- (4) Secure transporter facilities. A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee. In the districts where a secure transporter facility is permitted with development standards, the following standards apply:
- (a) A secure transporter facility is permitted in Community Commercial (CC), Limited Manufacturing (M-1), and General Manufacturing (M-2).
  - (b) In Zone CC, warehousing activity is only permitted as an accessory use to the principal permitted secure transporter use.
- (5) Safety compliance facility. A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility. In the districts where safety compliance facility is permitted with development standards, the following standards apply.
- (a) Permitted in the following zones: Community Commercial (CC), Live Work 1 (LW-1), Live Work 2 (LW- 2), Downtown 3 (D3), Business, Technology, and Research (BTR), Limited Manufacturing (M-1), and General Manufacturing (M-2).
  - (b) Street type limitations. In Downtown 2 (D2), a safety compliance facility cannot be located in a building's occupied space fronting a priority street.
- (6) Provisioning center. A licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL § 333.26421 et seq., is not a provisioning center for purposes of this article. In the districts where provisioning center facility is permitted with development standards, the following standards apply:
- (a) Permitted in the following zones:
    - [1] Community Commercial (CC).
    - [2] Downtown 1 (D1), Downtown 2 (D2), Downtown 3 (D3). In D3, only when located on a priority, suburban, connector, or main street street type.
  - (b) Only one provisioning center license is permitted per parcel or lot.
  - (c) All provision center activities must be conducted within an enclosed building.
  - (d) A provisioning center is not allowed within 660 feet of the following intersections: East Cork Street and South Burdick Street, the intersection of East Cork Street and Portage Street, and the intersection of West Ransom Street and North Westnedge Avenue.
  - (e) A separation distance of 1,000 feet is required from any other provisioning center or retailer, except when the provisioning center is co-located with a retailer as provided by state regulations and this ordinance. **[Amended 6-6-2022 by Ord. No. 2049]**

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(f) A provisioning center is not permitted on the same property or parcel or within the same building where any of the following are located:

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- [1] A package liquor store.
- [2] A convenience store that sells alcoholic beverages.
- [3] A fueling station that sells alcoholic beverages.

(g) The consumption of marijuana products is not permitted on the premises of retail facility. **[Amended 6-6-2022 by Ord. No. 2049]**

**§ 50-4.5. Accessory uses and structures.**

A. Table. Table 4.5-1 outlines the permitted accessory uses and structures by district. Accessory uses and structures are permitted in the following ways.

- (1) Permitted. Uses in the table noted with "P" are permitted by right in the zoning district(s) in which they are listed.
- (2) Permitted, development standards required. Uses in the table noted with "PD" are permitted by right in the zoning district(s) in which they are listed, provided that they are developed with the listed development standards. The development standards listed for a use are intended to manage any potential impacts associated with it, making it appropriate in a location where it might otherwise have not been allowed.
- (3) Special use. Uses in the table noted with "S" are permitted with the approval of a special use permit from the Planning Commission in the zoning district(s) in which they are listed. **[Amended 6-6-2022 by Ord. No. 2049]**

Table 4.5-1 Accessory Uses and Structures								
Key:								
P = Permitted								
S = Special Use								
PD = Permitted - Development Standards Required								
Uses and Structures	District							
	Node	LV1	LV2	D1	D2	D3	CC	All R
Accessory dwelling units (ADU)	PD	PD	PD		PD	PD	PD	PD
Agriculture	PD	P	P	PD	PD	PD	PD	
Drive-through	PD	PD	PD		PD	PD	PD	
Food truck	PD	PD	PD		PD	PD	PD	
Home occupation	PD	PD	PD	PD	PD	PD	PD	PD
Kiosk	PD	PD	PD		PD	PD	PD	

Table 4.5-1 Accessory Uses and Structures								
<b>Key:</b>								
<b>P = Permitted</b>								
<b>S = Special Use</b>								
<b>PD = Permitted - Development Standards Required</b>								
Uses and Structures	District							
	Node	LV1	LV2	D1	D2	D3	CC	All R
Outdoor storage	PD	PD	PD				P	
Secondary building	PD	PD	PD	PD	PD	PD	PD	PD
Sidewalk cafe	PD	PD	PD	PD	PD	PD		

B. Development requirements. All accessory structures will meet the following standards, unless otherwise noted.

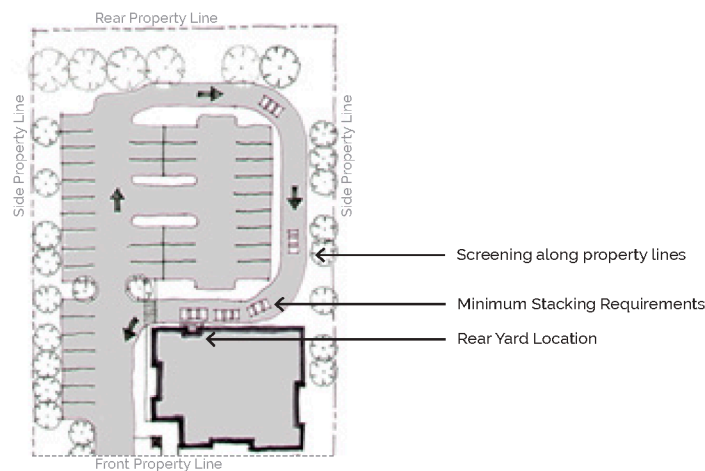
- (1) Front yard. Accessory structures are not permitted in the front yard unless otherwise noted.
- (2) Corner side yard. Accessory structures cannot be located closer to the corner-side property line than a principal structure.
- (3) Setback. Accessory structures shall be set back three feet from side and rear property lines. **[Amended 6-6-2022 by Ord. No. 2049]**
- (4) Height. Accessory structures shall not exceed the height of the principal structure.
- (5) Lot coverage. Accessory structures count toward a lot's impervious coverage. Placement of an accessory structure cannot make a lot exceed its impervious coverage requirement.

C. Use definition and standards. The following details the accessory uses and structures listed in Table 4.5-1 and detail any development standards necessary.

- (1) Accessory dwelling unit: a secondary dwelling unit on a lot; it may be located in a secondary building or interior to the principal building.
  - (a) Units in secondary buildings.
    - [1] Quantity. One accessory dwelling unit in a primary structure is permitted per lot.
    - [2] Maximum unit size. The maximum unit size is 950 square feet.
  - (b) Interior units: An interior accessory dwelling unit is defined as one with a separate exterior entrance. When located interior to the principal structure, the following are required:
    - [1] Quantity. One accessory dwelling unit interior to a principal building is permitted.
    - [2] Maximum unit size. The maximum unit size is less than or equal to 30% of the square footage of the primary residential unit or 600 square feet, whichever is larger.
  - (c) Parking. Space for one car per accessory dwelling unit is required. On-street parking, if available

overnight, can be used to meet this requirement if located within 660 feet.

- (2) Agriculture: growing of food crops indoors or outside for personal use, donation, or sale; this excludes the growth of marihuana plants for medicinal or recreational purposes as an accessory use on the lot. In the districts where agriculture is permitted with development standards (PD), the following standards apply.
  - (a) Agriculture as an accessory use shall not prevent a lot from meeting its lot type or dimensional requirements; refer to Article 5, Zoning Standards; Lot Types. **[Amended 6-6-2022 by Ord. No. 2049]**
  - (b) Agriculture as an accessory use is permitted in all yards.
  - (c) Agriculture as an accessory use is permitted within a building, provided that it is not in the occupied space of a building; it is permitted on a building's roof.
- (3) Drive-through. Drive-throughs provide service to customers who remain in their vehicles and may be used in conjunction with a variety of uses including financial institutions and restaurants. In the districts where a drive-through is permitted with development standards (PD), the following standards apply: Refer to Figure 4.5-1, Drive-Through Design.



**Figure 4.5-1. Drive-Through Design**

- (a) Permitted locations. A drive-through is permitted as follows:
  - [1] Nodes, Downtown 2, and Downtown 3. A drive-through is permitted only in the rear yard, fully screened from property lines by structure or landscaping.
  - [2] Other districts. A drive-through is permitted in the rear yard. If the lot does not front a priority or main street, a drive-through is also permitted in the side yard, and in Community Commercial (CC) it is also allowed in the corner yard. **[Amended 6-6-2022 by Ord. No. 2049]**
- (b) Landscape screening. Adjacent to the drive-through, along the rear and/or side property lines, shall be screened by landscaping as defined by Appendix A, § 6.2, Landscaping and Open Spaces.
- (c) Stacking space. A minimum of three stacking spaces are required, measured from the drive-through window or entrance into the stall or loading area.
- (4) Food truck: vehicle or trailer used to prepare and/or serve food. In the districts where a food truck is

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permitted with development standards (PD), an approved site plan is required as follows:

- (a) Single food truck. Site plan approval is required when one food truck operates on a lot three or more days a week and utilizes the lot's utilities, such as electrical or water services.
  - (b) Multiple food trucks. Site plan approval is required if multiple food trucks operate on a lot three or more days a week.
  - (c) Permanent food truck lot. The outdoor market lot type standards shall be followed. Refer to § 50-5.6G, Lot type: outdoor market.
- (5) Home occupation: types of work that can be conducted in a residence with little to no impact on the surrounding lots. Home occupations are secondary to the primary use of the lot, residential.
- (a) Prohibited uses. Prohibited uses include animal boarding, dispatch center, restaurants, sale or storage of firearms, outdoor storage, vehicle or large equipment storage and repair, and all uses listed under High Hazard Group H Uses in the Building Code. **[Amended 6-6-2022 by Ord. No. 2049]**
  - (b) Resident-operator. The operator of the home occupation must be a full-time resident of the dwelling unit in which the business is associated.
  - (c) Employees. A maximum of two nonresident employees are permitted on the premises at one time.
  - (d) Signs. No more than one nameplate sign is permitted with a maximum size of one square foot. It may not be internally illuminated.
  - (e) Secondary building. A home occupation may be located in a secondary building. **[Amended 6-6-2022 by Ord. No. 2049]**
  - (f) Exterior building appearance. No exterior building changes are permitted; there must be no visible evidence of the existence of a home occupation beyond the permitted signage, including outdoor storage of materials related to the use.
  - (g) Operational impacts. No home occupation or equipment used with a home occupation may cause odor, vibration, noise, electrical interference or fluctuation in voltage measured at the lot line.
  - (h) Customers. Customers or clients are permitted at the home occupation during the hours of 8:00 a.m. to 8:00 p.m.
    - [1] No more than two customers or clients are permitted at a given time, except in the case of classes, such as art, music, cooking, or fitness classes, where up to four clients are permitted at one time.
    - [2] A special use permit is required for a home occupation providing classes with five or more clients at a time.
  - (i) Customer parking. Customer parking may occur off-street or on-street, where permitted.
  - (j) Deliveries. Deliveries are permitted during the hours of 8:00 a.m. to 8:00 p.m. and are permitted through the common residential delivery services.
  - (k) Medical marihuana. Medical marihuana is a permitted home occupation when a primary caregiver who has agreed and is registered with the State of Michigan to assist with a qualifying patient's use of medical marihuana. In the districts where medical marihuana is permitted is permitted with development standards, the following standards apply:
    - [1] Michigan Medical Marihuana Act compliance. The medical use of marihuana and

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marihuana-infused products shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, 2008 Initiated Law No. 1, MCLA § 333.26421 et seq. ("Act") and the Administrative Rules promulgated by the State of Michigan ("Administrative Rules") pursuant to the Act, as they may be amended from time to time.

- [2] Location criteria. Medical marihuana as a home occupation must comply with the following location criteria.
  - [a] A primary caregiver must be located 1,000 feet from an existing public or private elementary, vocational, or secondary school; public or private college, junior college, or university; playground; housing facility owned by a public housing authority; or public library or private library open to the public.
  - [b] A primary caregiver must be 100 feet from an existing public or private youth center, public swimming pool, or video arcade facility to ensure community compliance with state and federal "Drug-Free School Zone" requirements.
- [3] Number of caregivers. One primary caregiver is permitted within a dwelling unit to service qualifying patients who do not reside with the primary caregiver.
- [4] Number of patients permitted. A primary caregiver is permitted up to five qualifying patients.
- [5] Consent of the property owner. If the primary caregiver is not the owner of the property in which they live and operate from, written consent must be obtained from the property owner to ensure the owner's knowledge of the use of the premises as permitted and the primary caregiver shall maintain written proof that the use of the property as a home occupation under this section is not prohibited by the property owner.
- [6] Growing. All medical marihuana plants shall be secured in one of the following ways.
  - [a] Contained within a structure that is an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient.
  - [b] Plants cultivated outdoors must be fully enclosed by fences or barriers that blocks the plants from public view, with no plants visibly growing above the fence or barrier, and the fence or barrier is locked or otherwise secured to limit access only to the primary caregiver or qualifying patient engaged in cultivating the plants.
- [7] Processing. The separation of plant resin from a marihuana plant using any substances with a flashpoint below 100° F. for processing is prohibited.
- [8] Lighting. If a room with windows is utilized as a marihuana-growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
- [9] Required permits. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana.
- [10] Nothing in this subsection, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of

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marihuana not in strict compliance with that Act and the Administrative Rules and this subsection. Also, since federal law is not affected by that Act or the Administrative Rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

- (6) Kiosk: nonpermanent structure that permits a variety of general retail and service uses, may be associated with the use of shipping containers or pop-up shops and sheds. In the districts where a kiosk is permitted with development standards (PD), the following is required.
- (a) Site plan. An approved site plan is required when two or more kiosks are being located on a lot for a period of more than two weeks or when a kiosk is used with the outdoor market lot type. Refer to § 50-5.6G, Lot type: outdoor market.
- (7) Outdoor storage. Storage of goods for sale or items related to the use(s) on the lot located outside of a structure. In the districts where outdoor storage is permitted with development standards (PD), the following is required:
- (a) Site plan. A site plan is required to review the size and placement on a lot.
- (b) Maximum size. Outdoor storage is permitted in an area no greater than 10% of the total lot area; in Live Work 1, no greater than 5% is permitted.
- (c) Location. Storage is permitted in the rear yard or side yard.
- (d) Screening. Storage must be screened from view from all property lines.
- (8) Secondary building. Secondary buildings include such structures as detached garages, sheds, accessory dwellings, greenhouses, and hoop houses. In the districts where secondary buildings are permitted with development standards (PD), the following standards apply:
- (a) Height. Secondary buildings can be up to two stories in height. Refer to Figure 5.3-1, Measuring Height.<sup>175</sup>
- (b) Agricultural uses. A secondary building associated with an agriculture use, such as a greenhouse, hoop house, or shed, shall set back at least 10 feet from the front and corner property lines.
- (9) Sidewalk cafe: outdoor eating areas permitted within the right-of-way and on the property in question. In the districts where a sidewalk cafe is permitted with development standards (PD), the following standards apply.
- (a) Clear pedestrian pathway. A minimum pedestrian pathway width of five feet must be maintained free of all obstacles. This clear pedestrian pathway shall be located adjacent to the building facade unless otherwise approved through the City Planner.
- (b) Permit. If located in the right-of-way, a right-of-way permit is required from the City of Kalamazoo.

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175. Editor's Note: Figure 5.3-1, Measuring Height, is included in 50-5.3.



**ARTICLE 5**  
**Zoning Standards; Lot Types**

**§ 50-5.1. General requirements. [Amended 6-6-2022 by Ord. No. 2049]**

- A. **Applicability.** The following shall apply to all new construction and renovation of existing structures in the Zoning District in alignment with the parameters in § 50-1.4, Nonconformances.
- B. **General standards.** The following standards apply in all Zoning Districts.
  - (1) **Uses.** Refer to Table 4.1-1, Use Table for permitted uses per district.
  - (2) **Right-of-way improvements.** Projects must follow the City's Street Design Manual when developing adjacent to a public street.
    - (a) **Sidewalk.** Installation of new sidewalk is required for all development and redevelopment projects. Repair of existing sidewalk to meet American Disability Association (ADA) City requirements is also required for all projects requiring site plan review.
- C. **Development standards.** Development and redevelopment in zoning districts shall follow the standards in this section.
  - (1) **Standards defined.** The standards that regulate development are generally defined in § 50-5.2, which include building siting, height, use, street facing facades.
  - (2) **Districts with lot type standards** (refer to Table 5.1-1, Permitted Lot Types by District) follow the standards for the selected lot type, as outlined beginning with § 50-5.6, Lot Type Standards.
  - (3) **Districts with dimension standards** follow the standards listed in Table 5.1-2, Dimension Standards by District.

**Table 5.1-1 Permitted Lot Types By District**  
**(Refer to 50-5.6 Lot Type Standards for details)**

**Key**

- P Permitted
- S Special Use
- PD Permitted - Development Standards Required

Lot Type	Zoning District					
	Node	LW1	LW2	D1	D2	D3
Commerce	P			P	P	
Flex		P	P		P	P
Cottage Commercial	PD	P	P			P
Civic		P	P		P	P
Warehouse			P			
Yard-Attached		P	P			P
Yard-Detached		P	PD			PD

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Lot Type	Zoning District					
	Node	LW1	LW2	D1	D2	D3
Outdoor Market		P	P			P

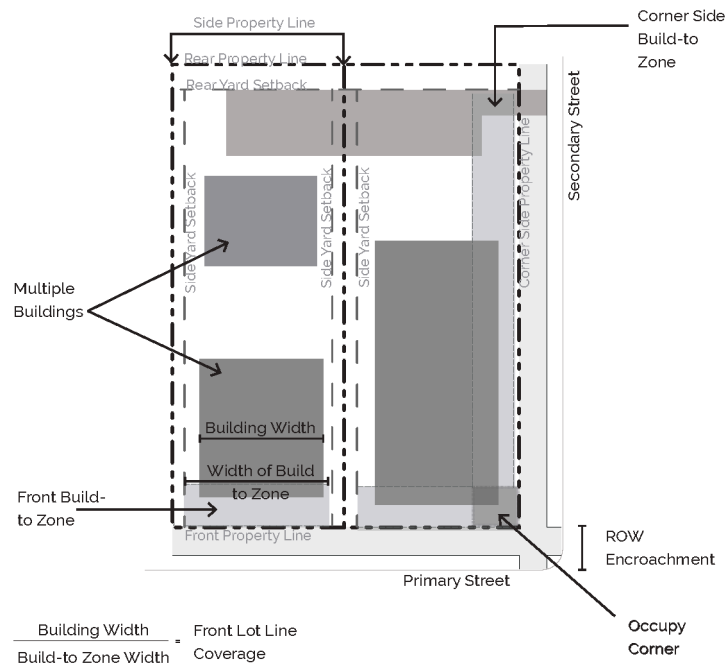
Dimension Standard	Zoning District	
	CC	
Lot Area		
Min. lot area for rezoning	1 acre	
Max. lot area for rezoning	-	
Min. lot area	-	
Setbacks		
Front	-	
Corner side	-	
Side	0 feet; 25 feet next to R District	
Rear	0 feet; 25 feet next to R District	
Max. lot coverage	80%, 10% semi-pervious	
Multiple principal buildings allowed	Yes	
Max. height	6 stories	
Facade		
Vehicle entrance bays	-	
Entrance type and transparency	Storefront, stoop, or arcade on street facing facades within 25 feet of front & corner side property lines; Min. transparency per entrance type	
Access		
Driveway quantity	1/street frontage less than 100 feet in width; additional permitted for every 75 feet of frontage	
Driveway location	Shared access across parcels and shared driveways are encouraged	

**§ 50-5.2. Building siting.**

- A. Street frontage. Refers to locating the building(s) on a lot. Refer to Figure 5.2-1, Building Siting. **[Amended 6-6-2022 by Ord. No. 2049]**
  - (1) Multiple principal buildings: the allowance for more than one principal structure on a lot.
  - (2) Front lot line coverage: the minimum percentage of building facade required along the front property line.
    - (a) Measurement. The standard is calculated by taking the width of the principal structure, measured

in the build-to zone, divided by the total width of the lot's build-to zone.

- (b) Multiple buildings. Multiple principal buildings can be located on the lot. The minimum front lot line coverage must be met.
- (3) Occupation of the corner. Occupying the corner, the area where the front and corner build-to zones meet, with a principal structure/or building entrance.
- (4) Front build-to zone: the build-to zone located parallel to the front property line.
  - (a) If not occupied by a structure, this area will contain public or private outdoor space or a public sidewalk.
  - (b) Vehicular parking is not permitted in the front build-to zone unless otherwise noted.
- (5) Corner build-to zone: the build-to zone located parallel to the corner side property line.
  - (a) Building facades must be located in the Corner Build-to Zone for the first 20 feet, measured from a lot's corner(s).
  - (b) If not occupied by a structure, this area will contain public or private outdoor space or a public sidewalk.
  - (c) Vehicular parking is not permitted unless otherwise noted.



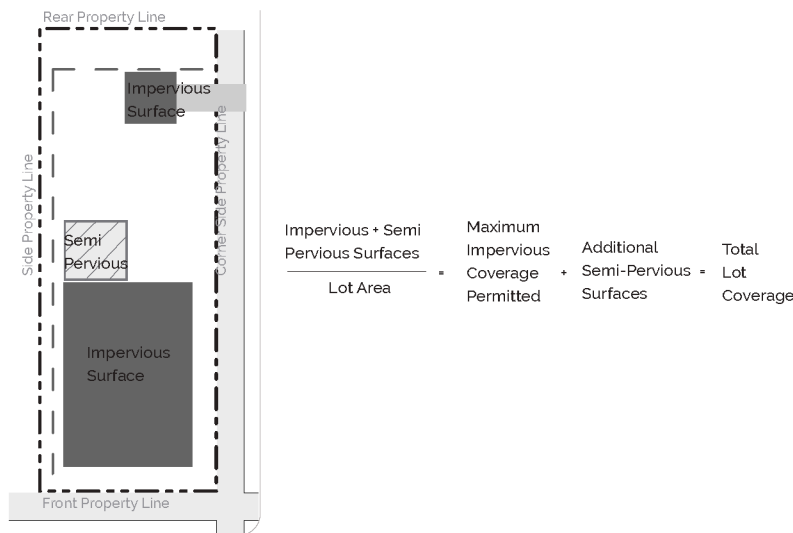
**Figure 5.2-1. Building Siting, Street Frontage, Lot Area and Front Lot Line Coverage**

- (6) Encroachment. Certain building elements, such as balconies, awnings, or signage may be permitted to encroach into the right-of-way.
  - (a) Where permitted, an encroachment agreement with the City is required.
  - (b) Encroachments shall not extend closer than two feet from the back of the curbline.
  - (c) A minimum height clearance of eight feet must be maintained.

B. Lot area.

- (1) Side yard setback: the minimum required setback along a side property line.
  - (a) Driveways are permitted in the side yard setback.
- (2) Rear yard setback: the minimum required setback along a rear property line.
  - (a) Driveways are permitted in the rear yard setback.
- (3) Minimum lot area for rezoning. Measured in square feet, it is the minimum size a lot can be to be zoned this district. **[Added 6-6-2022 by Ord. No. 2049]**
- (4) Maximum lot area for rezoning. Measured in square feet, it is the maximum size a lot can be to be zoned this district. **[Added 6-6-2022 by Ord. No. 2049]**
- (5) Minimum lot size. Measured in square feet, it is the smallest square footage allowed for the creation of a new lot in a zoning district. **[Added 6-6-2022 by Ord. No. 2049]**

C. Lot coverage: the maximum percentage of a lot permitted to be covered with nonpervious surfaces and the additional amount of semipervious surface permitted. Refer to Figure 5.2-2, Lot Coverage.



**Figure 5.2-2 Lot Coverage**

D. Parking, loading, and site access.

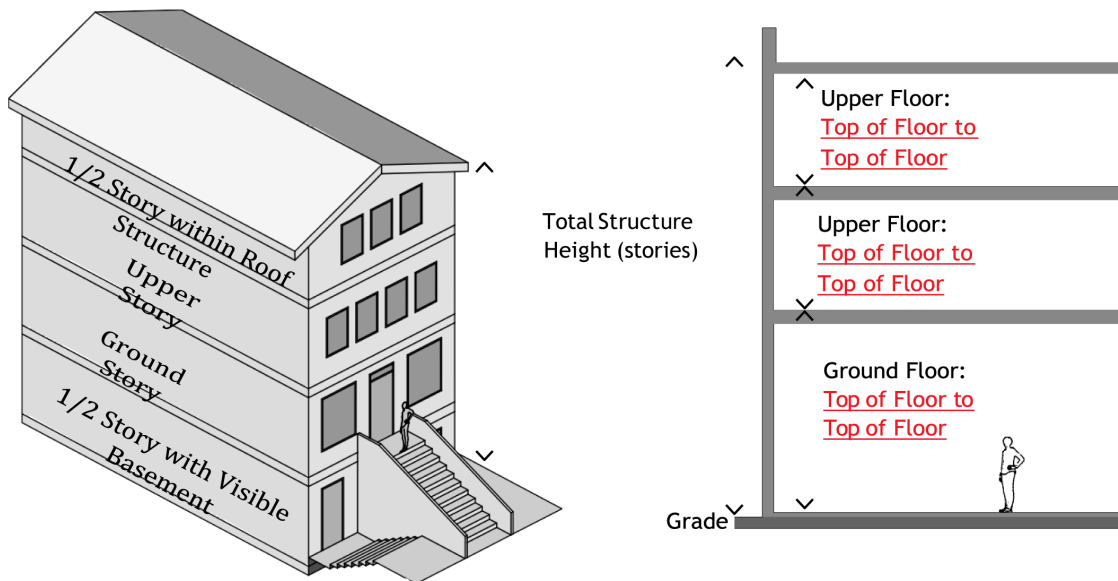
- (1) Parking location. The yard in which a parking area and associated drive are permitted.
- (2) Service and loading locations. The facade on which access is permitted for servicing, loading, and unloading activities related to that building's use.
- (3) Vehicle entrance bay. The facade of the building on which an entrance bay to interior parking or other use is permitted. **[Amended 6-6-2022 by Ord. No. 2049]**
- (4) Driveway location. The permitted locations for vehicular access.
  - (a) If an alley is available, driveway access shall be located from the alley.
  - (b) If an alley is not available, driveway location is noted by Lot Type (refer to § 50-5.6, Lot type standards) or District (refer to Table 5.1-2, Dimension Standards by District). **[Amended 6-6-2022**

**by Ord. No. 2049]**

- (c) Driveways on corner lots must be at least 20 feet from the crosswalk; if no crosswalk is present, the distance is measured from the stop bar. **[Amended 6-6-2022 by Ord. No. 2049]**

**§ 50-5.3. Height.**

- A. Height. Building height is measured as follows. Refer to Figure 5.3-1, Measuring Height. **[Amended 6-6-2022 by Ord. No. 2049]**

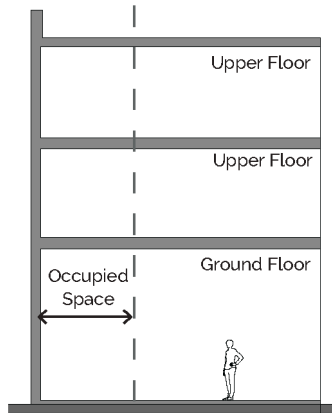


**Figure 5.3-1 Measuring Height**

- (1) Minimum and maximum height: the minimum and maximum overall height of a structure.
  - (a) Measurement. Building height is measured in stories. **[Amended 6-6-2022 by Ord. No. 2049]**
    - [1] A minimum and/or maximum height may be given.
    - [2] This measurement does not include rooftop mechanicals.
    - [3] A ground floor with a floor-to-floor height of 20 feet or more will be counted as two stories for overall height of a structure.
  - (b) Half stories. Half stories can be found either completely within the roof structure with street-facing windows or in a visible basement exposed up to 1/2 story above grade.
- (2) Floor height. Each lot type permits a range of height expressed in feet for each story.
  - (a) Floor to floor. The height of a story is measured between the floors; top of floor to top of floor. If the building is one story, use the floor of the story to the tallest point of the ceiling.
  - (b) Application. Floor height requirements apply only to principal buildings on street-facing facades.

**§ 50-5.4. Uses. [Amended 6-6-2022 by Ord. No. 2049]**

Permitted uses are outlined in Table 4.1-1, Use Table. Refer to the Lot Type Standards (§ 50-5.6) for specific requirements by lot type. See Figure 5.4-1, Permitted Uses per Floor.

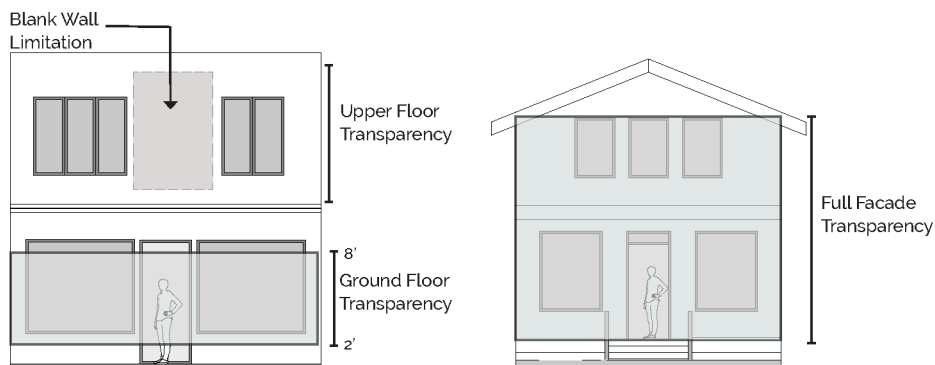


**Figure 5.4-1 Permitted Uses Per Floor**

- A. Ground and upper floor. The permitted uses may vary between ground and upper floors.
- B. Occupied space. The restriction of internal parking, residential units, storage areas, and utility areas in the occupied space of a building's ground floor, unless otherwise stated in the lot types. Refer to the definition of "occupied space" in § 50-1.3 for additional information on occupied space.
  - (1) Front facades.
  - (2) Corner-side facades when fronting a priority or main street.
  - (3) Corner-side facades on other street types for at least the minimum required building placement for the corner facade [refer to § 50-5.2A(5)(a)].

**§ 50-5.5. Street-facing facades.**

- A. Street-facing facade. The following are requirements on street-facing building facades.
  - (1) Transparency. The percentage of a facade that has clear, non-reflective windows that allow visibility into a building of at least four feet. It is expressed as a percentage windows to total facade area. Refer to Figure 5.5-1, Measuring Transparency: Ground Floor, Upper Floor, and Full Facade. **[Amended 6-6-2022 by Ord. No. 2049]**



**Figure 5.5-1 Measuring Transparency: Ground Floor, Upper Floor, and Full Facade**

- (a) Ground floor. Transparency is determined by entrance treatment, unless otherwise noted.
- (b) Upper floor. Transparency is noted by lot type.

§ 50-5.5 (c) Full facade. Transparency is measured using the entire front facade rather than only one story of the building. § 50-5.5

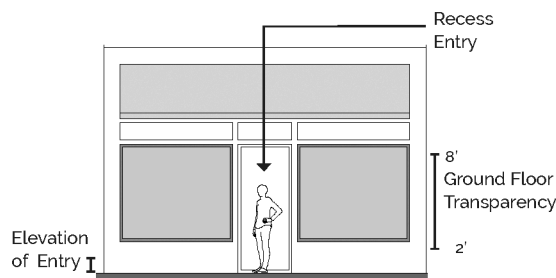
(2) Blank wall limitations: the maximum area on a facade permitted to be windowless.

B. Entrance. Required entrance locations and treatments.

(1) Location: location of the primary, functioning, public entrance of the principal building, noted by facade.

(2) Entrance treatment: the entrance treatments required on street-facing facades. Entrance treatment standards apply to the entire ground story of all front facades, and corner side facades when facing a primary street.

(a) Storefront. Storefronts are a highly transparent ground story treatment typically used as display areas for retail and other commercial uses. Refer to Figure 5.5-2, Storefront Entrance Type.



**Figure 5.5-2. Storefront Entrance Type**

[1] Transparency. Minimum transparency is 70%, measured between two and eight feet above the grade of the sidewalk. Refer to Figure 5.5-1, Measuring Transparency: Ground Floor, Upper Floor, and Full Facade.

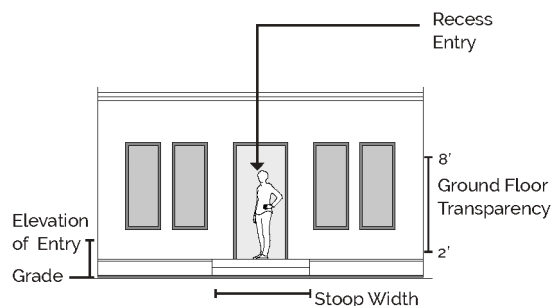
[2] Elevation. Storefronts shall be located no more than one foot above the sidewalk.

[3] Recess. Entrances may be recessed up to eight feet.

[4] Building entrance. The primary building entrance shall be located off the storefront.

[5] Interior access. Additional entrances to access uses in the upper stories or rear of the ground floor are permitted without having to adhere to the above requirements.

(b) Stoop. Refer to Figure 5.5-3, Stoop.

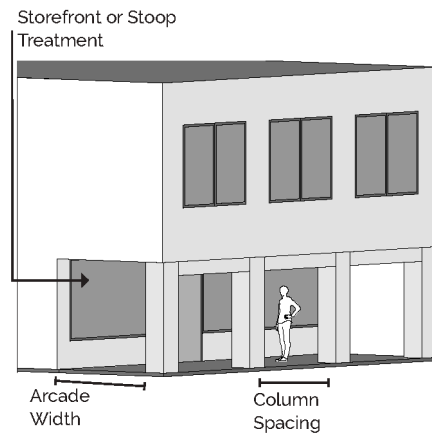


**Figure 5.5-3. Stoop**

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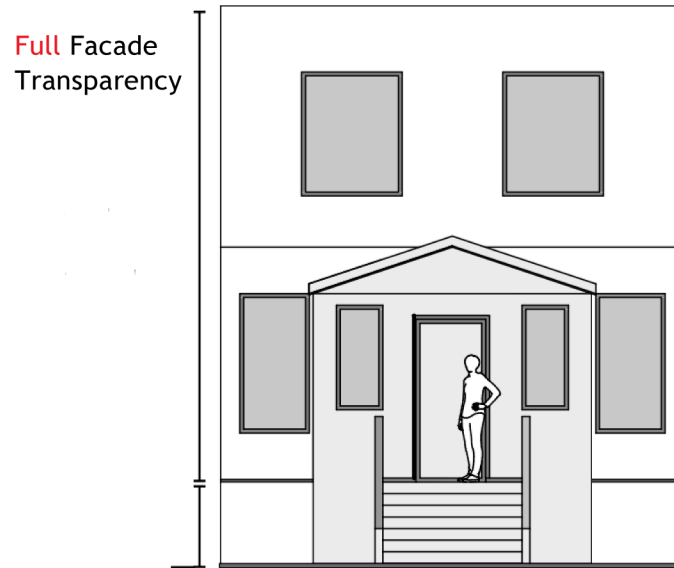
- [1] Transparency. Minimum transparency is 50%, measured between two and eight feet above the grade of the sidewalk. Refer to Figure 5.5-1, Measuring Transparency: Ground Floor, Upper Floor, and Full Facade.
  - [2] Elevation. Stoops shall be not be elevated more than three feet six inches above the sidewalk, except with a visible basement.
  - [3] Stoop size. Stoops shall be a minimum of three feet deep and six feet wide.
  - [4] Recess. Entrances may be recessed up to five feet.
  - [5] Building entrance. Entrances shall be located off the stoop.
  - [6] Interior access. Additional entrances to access uses in the upper stories or rear of the ground floor are permitted without having to adhere to the above requirements.
- (c) Arcade. An arcade is a covered pedestrian walkway within the recess of a ground story. Refer to Figure 5.5-4, Arcade.



**Figure 5.5-4. Arcade**

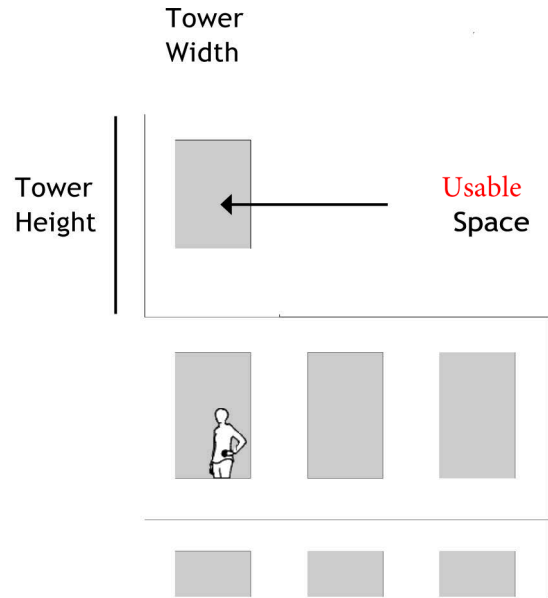
- [1] Interior treatment. Arcades must be used in conjunction with storefront or stoop treatment.
  - [2] Arcade width. An open air public walkway must be a minimum of six feet.
  - [3] Column spacing. Columns shall be spaced between 10 and 12 feet on center.
  - [4] Arcade opening. The opening shall not be flush with the interior arcade ceiling and may be arched or straight.
- (d) Porch entrance type. A porch is a raised, roofed platform. Porches can be fully enclosed. Refer to Figure 5.5-5, Porch Entrance Type.





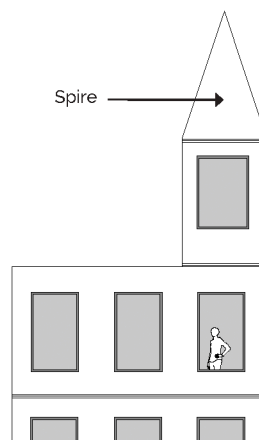
**Figure 5.5-5. Porch Entrance Type**

- [1] Transparency. Per lot type or district, unless the porch is fully enclosed, in which case a minimum of 40% is applied. Refer to Figure 5.5-1, Measuring Transparency. **[Amended 6-6-2022 by Ord. No. 2049]**
  - [2] Elevation. Porches shall be located a maximum of four feet six inches above the sidewalk or average grade measured at the front facade.
  - [3] Height. A porch may be up to two stories in height to provide a balcony for the second story.
  - [4] Building entrance. The primary building entrance shall be located off the porch.
- (3) Entrances on street-facing facades: the maximum spacing between entrances on a street-facing building facade.
  - (4) Entrances on other facades. An entrance is required on side and rear facades when fronting parking areas.
- C. Roof type. All roof styles are permitted in the lot types, provided that a defined roof style is utilized; special roof types, tower and spire, are permitted per lot type.
- (1) Tower. A tower is a rectilinear or cylindrical, vertical building element. Refer to Figure 5.5-6, Tower.



**Figure 5.5-6. Tower**

- (a) Height. The maximum tower height is equal to the height of one upper story floor of the building onto which the tower is applied.
  - (b) Width. The maximum tower width along all facades is 1/3 the width of the building or 30 feet, whichever is less.
  - (c) Use. Towers may be utilized by the same uses allowed in the upper stories of the front type in which it is located.
- (2) Spire. A spire is a long, tapering design element attached to a tower or the roof of a building. Refer to Figure 5.5-7, Spire.



**Figure 5.5-7. Spire**

- (a) Use. The spire may not contain an occupied space.

**§ 50-5.6. Lot type standards.**

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A. Lot type descriptions. The following lot types are defined and detailed for use in development and redevelopment in the Node, Live-Work 1, and Live-Work 2 Districts. Refer to Table 5.5-1, Permitted Lot Types by Zoning District. **[Amended 6-6-2022 by Ord. No. 2049]**

Table 5.6-1 Lot Types by Zoning District						
Lot Type	Zoning District					
	Node	LW1	LW2	D1	D2	D3
Commerce	P			P	P	
Flex		P	P		P	P
Cottage Commercial	PD	P	P			P
Civic		P	P		P	P
Warehouse			P			
Yard - attached		P	P			P
Yard - detached		P	PD			PD
Outdoor market		P	P			P

- (1) Commercial lot type: a lot type with a high level of transparency on the ground floor that is located at or near the front property line of a lot. This type is ideal for active ground floor uses, such as retail or a community center, and a mix of uses including residential and commercial on upper stories.
- (2) Flex lot type: a lot type that promotes buildings constructed in a narrow front build-to zone with a range of entrance treatments that can support a wide variety of uses, including commercial, industrial, and residential.
- (3) Cottage commercial lot type: a lot type that recognizes that many structures residential in character can be used for commercial purposes, at least on the ground floor. These typically have a higher transparency and impervious coverage than the yard - detached lot type. In the districts where the cottage commercial building is permitted with development standards (PD), the lot type is only permitted in neighborhood nodes, as designated in the 2025 Master Plan, Future Land Development Map.
- (4) Civic lot type: a lot type that allows for the development of unique buildings for civic and institutional uses through flexible building siting and facade treatment standards.
- (5) Warehouse lot type: a lot type that maintains the urban character of an area while considering the needs of commercial and industrial uses.
- (6) Yard - attached lot type: a lot type that supports the development of buildings that are slightly set back from the front property line and typically contains residential uses. In the districts where the yard - attached lot type is permitted with development standards (PD), the lot type is only permitted when it contains two or more units. Refer to § 50-4.4A(4).
- (7) Yard - detached lot type: a residential lot type that allows for detached buildings that are set back from the street. Typically it supports residential uses.
- (8) Outdoor market type: a lot type that focuses on the use of outdoor spaces on a lot for such uses as gardening, seating, dining, gathering, and retail. May include limited indoor areas in nonpermanent or open air structures, such as shipping containers, kiosks, or pergolas, for the sale of items or preparation of food items for sale, but with limited or no indoor seating. Permanent buildings are also permitted with

§ 50-5.6 this lot type, provided that they account for a small percent of the total lot area.

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B. Lot type: commerce.

**(1) Building siting (Figure 5.6-1).**

Multiple principal buildings	Yes	1
Front lot line coverage (minimum)	80% <sup>1</sup>	2
Occupation of corner	Yes	3
Front build-to zone (feet)	0-5; 0-10 if for public space, such as wider sidewalks, on-street parking, or cafes <sup>2</sup>	4
Corner build-to zone (feet)		
ROW encroachment	Yes	5

NOTE:

<sup>1</sup> A courtyard may count toward up to 35% of the minimum coverage. Lots less than 60 feet in width, without alley access, and not on a corner have a minimum coverage requirement of 65%.

<sup>2</sup> Larger BTZ requires review and approval through the site plan review process. Larger BTZ is not permitted in D1.

Side yard setback (feet)	0	6
Rear yard setback (feet)	0; 0 off alley; 10 next to R District	7

**(c) Lot coverage.**

Impervious surface (maximum)	100%	8
Semi-impervious surface	n/a	9

**(d) Parking, loading and access.**

Parking location	Rear yard	10
Loading and service location	Rear, side, corner side facades <sup>3</sup>	11
Vehicle entrance bay		
Driveway location	Alley; 1 on corner side <sup>4</sup> , 1 on front if on an interior lot not located in D1 <sup>4</sup>	12

NOTES:

<sup>3</sup> Entrance bays for parking and loading not permitted on primary streets. Entrance bays and driveways are not permitted on a priority street.

<sup>4</sup> A second driveway is permitted on lots wider than 200 feet.

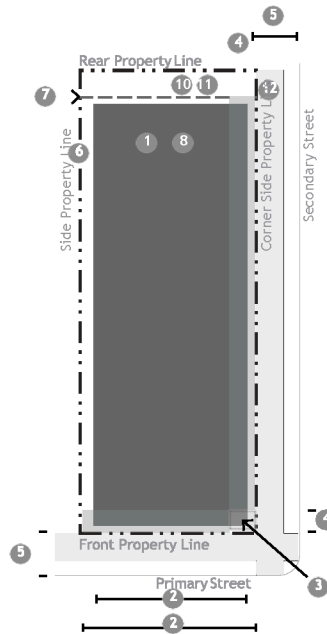


Figure 5.6-1 Building Siting

**(2) Height (Figure 5.6-2).**

Minimum height	2 stories <sup>7</sup>	14
Maximum height	Node: 3 stories or up to height of tallest building within 330 feet <sup>6</sup> ; D1 and D2: no maximum height	15
Ground floor (feet)	14 to 24 <sup>7</sup>	16
Upper floor(s) (feet)	9 to 14	17

NOTES:

- <sup>5</sup> Tower is allowed to be one story taller than the overall building height.
- <sup>6</sup> 330 feet is measured from outer lot line of the Node District. The height increase is capped at no more than two stories taller than the tallest building in the Node.
- <sup>7</sup> A ground floor height of 20 feet or greater will be counted as two stories for overall building height.

**(3) Uses (Table 4.1-1).**

Ground floor	All permitted uses per district	18
Upper floor	All permitted uses per district	19
Occupied space	Yes, first two floors, except residential/ lodging is permitted per Table 4.1-1	20

Accessory uses and structures See Table 4.5-1.

**(4) Street-facing facades (Figure 5.6-3).**

**(a) Transparency (minimum).**

Ground floor	Per entrance type; see § 50-5.5B	21
Upper floor(s)	20% per floor	22
Blank wall limitations	Yes	23

**(b) Entrance.**

Location	Front facade, building corner	24
Entrance treatment (see § 50-5.5B)	Storefront; stoop permitted on corner or other facades	25
Entrances on street-facing facades	1 per 50 feet of building length	26
Entrances on other facades	Yes	

**(c) Roof type.**

Tower	Permitted	27
Spire	Not permitted	

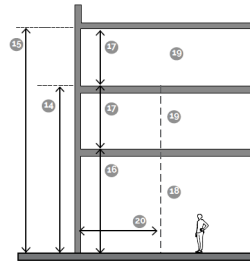


Figure 5.6-2 Height and Use

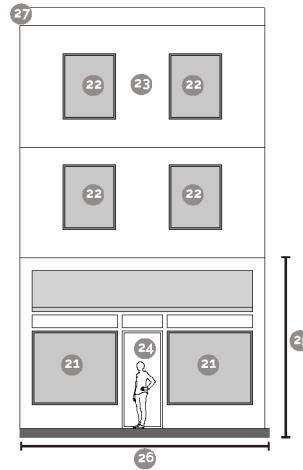


Figure 5.6-3 Street-Facing Facades

C. Lot type: flex.

(1) Building siting (Figure 5.6-4).

(a) Street frontage.

Multiple principal buildings	Yes	1
Front lot line coverage (minimum)	70% <sup>1</sup>	2
Occupation of corner	Yes	3
Front build-to zone (feet)	0 to 10	4
Corner build-to zone (feet)	0 to 10	5
ROW encroachment	Yes	6

NOTE:

<sup>1</sup> A courtyard may count toward up to 35% of the minimum coverage. Lots less than 60 feet in width, without alley access, and not on a corner have a minimum coverage requirement of 65%.

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**(b) Lot area.**

Side yard setback (feet)	0	7
Rear yard setback (feet)	0; 0 off alley; 10 next to R District	8

**(c) Lot coverage.**

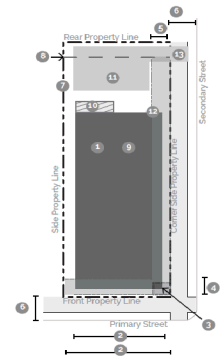
Impervious surface (maximum)	75%; 85% in Live-Work 2; 100% in D2 and D3	9
Semi-impervious surface	15%	10

**(d) Parking, loading and access.**

Parking location	Rear yard	11
Loading and service location	Rear, side, corner side facades <sup>2</sup>	12
Vehicle entrance bay		
Driveway location	Alley; 1 on corner side <sup>3</sup> , 1 on front if an interior lot not located in D1 <sup>3</sup>	13

NOTES:

- 2 Entrance bays for parking and loading purposes not permitted on primary streets.
- 3 A second driveway is permitted on lots wider than 200 feet.



**Figure 5.6-4 Building Siting**

**(2) Height (Figure 5.6-5).**

Minimum height <sup>5</sup>	1 story, 2 story minimum in D2 and D3	14
Maximum height <sup>4</sup>	3 stories; Live Work 2 on a connector and in D3, up to 5 stories; D1 and D2, no maximum height	15
Ground floor (feet)	12 to 24 <sup>5</sup>	16



Upper floor(s) (feet)	9 to 14	17
-----------------------	---------	----

NOTES:

- 4 Tower is allowed to be one story taller than the overall building height.
- 5 A ground floor height of 20 feet or greater will be counted as two stories for overall building height.

**(3) Uses (Table 4.1-1).**

Ground floor	All permitted uses per district	18
Upper floor		
Occupied space restrictions	Yes; first two floors; except residential/ lodging permitted per Table 4.1-1	19
Accessory uses and structures	See Table 4.5-1	

**(4) Street-facing facades (Figure 5.6-6).**

**(a) Transparency (minimum).**

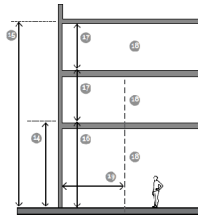
Ground floor	Per entrance type; see § 50-5.5B	20
Upper floor(s)	20% per floor	21
Blank wall limitations	Yes	22

**(b) Entrance.**

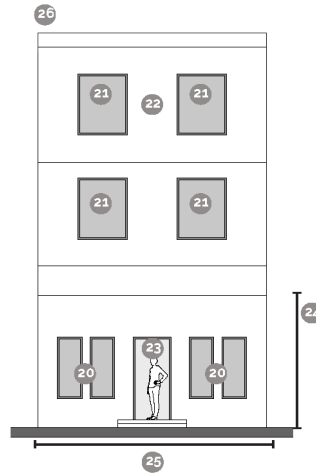
Location	Front facade, building corner	23
Entrance treatment (see § 50-5.5B)	Storefront, stoop	24
Entrances on street-facing facades	1 per 60 feet of building length	25
Other facade entrances	Yes	

**(c) Roof type.**

Tower	Permitted	26
Spire	Not permitted	



**Figure 5.6-5 Height and Use**



**Figure 5.6-6 Street Facing Facades**

D. Lot type: Cottage commercial

**(1) Building siting (Figure 5.6-7).**

**(a) Street frontage.**

Multiple principal buildings	Yes	1
Front lot line coverage (minimum)	40%	2
Occupation of corner	Not required	
Front build-to zone (feet)	5 to 20; 0 to 10 in Nodes <sup>1</sup>	3
Corner build-to zone (feet)	5 to 20; 5 to 15 in Nodes <sup>1</sup>	4
ROW encroachment	Yes	5
		6

NOTE:

<sup>1</sup> Stoops and porches may be located in the build-to zone.

**(b) Lot area.**

Side yard setback (feet)	5	7
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Rear yard setback (feet)	15	8
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**(c) Lot coverage.**

Impervious surface (maximum)	65%	9
Semi-impervious surface	10%	10

**(d) Parking, loading and access.**

Parking location	Rear, side yards	11
Loading and service location	Not permitted	
Vehicle entrance bay	Rear, side, corner side facades <sup>2</sup>	12
Driveway location	Alley; 1 on corner side or 1 on front if on an interior lot	13

**NOTES:**

<sup>2</sup> Parking entrance bays are not permitted to front primary streets unless located outside of the build-to zone.

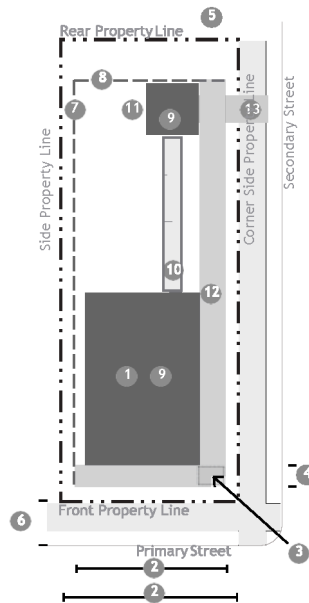


Figure 5.6-7 Building Siting Attached and Detached

**(2) Height (Figure 5.6-8).**

Minimum height	1 story; 2 story minimum in D3	14
Maximum height	2.5 stories	15
All floors (feet)	9 to 14	16

**(3) Uses (Table 4.1-1).**

All floors	Residential/lodging, commercial, craftsman	17
Occupied space	Yes	18
Accessory uses and structures	See Table 4.5-1.	

**(4) Street-facing facades (Figure 5.6-9).**

**(a) Transparency (minimum).**

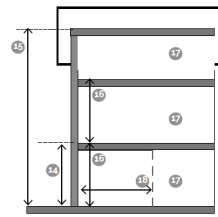
Facade transparency (minimum)	40% for stoops and porches; storefronts per § 50-5.5B(2)(a)	19
Blank wall limitations	No	20

**(b) Entrance.**

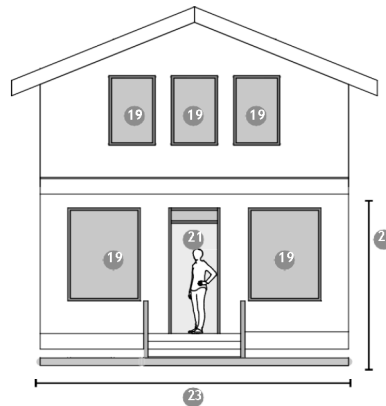
Location	Front facade, building corner	21
Entrance treatment (see § 50-5.5B)	Stoop, porch, storefront	22
Entrances on street-facing facades	1 per building	23
Other facade entrances	Not required	24

**(c) Roof type.**

Tower	Permitted
Spire	Not permitted



**Figure 5.6-8 Height and Use**



**Figure 5.6-9 Street-Facing Facades**

E. Lot type: civic.

**(1) Building siting (Figure 5.6-10).**

**(a) Street frontage.**

Multiple principal buildings	Yes	1
Front lot line coverage (minimum)	Not required	2
Occupation of corner	Yes	3
Front build-to zone (feet)	0 to 25; 0 to 15 in D2	4
Corner build-to zone (feet)	0 to 15	5
ROW encroachment	Yes	6

**(b) Lot area.**

Side yard setback (feet)	0	7
Rear yard setback (feet)	5; 0 off alley; 10 next to R District	8

**(c) Lot coverage.**

Impervious surface (maximum)	70%	9
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Semi-impervious surface	10%	10
<b>(d) Parking, loading and access.</b>		
Parking location	Rear, side yards	11
Loading and service location	Rear, side corner side facades <sup>1</sup>	12
<b>Vehicle entrance bay</b>		
Driveway location	Alley, 1 on corner side <sup>2</sup> , 1 on front if an interior lot except in D2 <sup>1</sup>	13

NOTES:

- 1 Entrance bays for parking and loading are not permitted on primary streets. Entrance bays and driveways are not permitted on a priority street.
- 2 A second driveway is permitted on lots wider than 200 feet.
- 3 A tower or a spire is allowed to be one story taller than the overall building height; a tower and a spire can add an additional 1 1/2 stories to the overall permitted height.

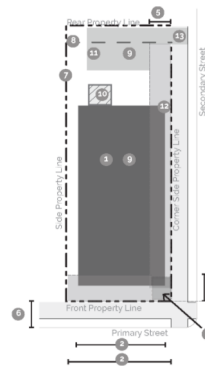


Figure 5.6-10 Building Siting

**(2) Height (Figure 5.6-11).**

Minimum height <sup>4</sup>	1 story; 2 stories minimum in D2 and D3	14
Maximum height <sup>3</sup>	3 stories; D2: no maximum height; D3: up to 6 stories	15
Ground floor (feet)	15 to 30 <sup>4</sup>	16
Upper floor (feet)	9 to 14	17

NOTES:

- 3 A tower or a spire is allowed to be one story taller than the overall building height; a tower and a spire can add an additional 1 1/2 stories to the overall permitted height.
- 4 A ground floor height of 20 feet or greater will be counted as 2 stories for overall building height.

**(3) Uses (Table 4.1-1).**

All floors	Civic/Institutional <sup>5</sup>	18
Occupied space restrictions	Yes <sup>5</sup>	19
Accessory uses and structures	See Table 4.5-1	

NOTES:

<sup>5</sup> Civic lot types existing at the time of this chapter's approval may contain any use permitted in the district in which it is located.

**(4) Street-facing facades (Figure 5.6-12).**

**(a) Transparency (minimum).**

Facade transparency (minimum)	15% per street-facing facade	20
Blank wall limitations	No	21

**(b) Entrance.**

Location	Front facade, building corner	22
Entrance treatment (see § 50-5.5B)	Stoop	23
Entrances on street-facing facades	1 per 60 feet of building length	24
Other facade entrances	Yes	25

**(c) Roof type.**

Tower	Permitted	26
Spire	Permitted	27

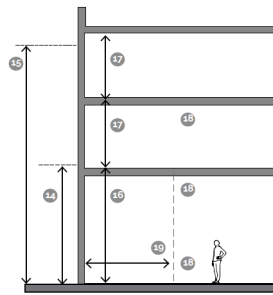


Figure 5.6-11 Height and Use



Figure 5.6-12 Street-Facing Facades

F. Lot type: warehouse. [Amended 5-4-2020 by Ord. No. 2004]

(1) Building siting (Figure 5.6-13).

(a) Street frontage.

Multiple principal buildings	Yes	1
Front lot line coverage (minimum)	65% <sup>1</sup>	2
Occupation of corner	Yes	3
Front build-to zone (feet)	0 to 15	4
Corner build-to zone (feet)	0 to 10	5
ROW encroachment	Yes	6

NOTE:

<sup>1</sup> A courtyard may count toward up to 35% of the minimum coverage.



(b) Lot area.		
Side yard setback (feet)	5	7
Rear yard setback (feet)	15; 0 off alley	8
(c) Lot coverage.		
Impervious surface (maximum)	80%	9
Semi-impervious surface	10%	10
(d) Parking, loading and access.		
Parking location	Rear, side yards	11
Loading and service location	Rear, side, corner side facades <sup>2</sup> , and 1 on front facade <sup>2</sup>	12
Vehicle entrance bay		
Driveway location	Alley; 1 on corner side; 1 on front if an interior lot <sup>3</sup>	13

NOTES:

- 2 Entrance bays for parking and loading not permitted on primary streets unless located at least 50 feet behind the front facade.
- 3 A second driveway is permitted on lots wider than 200 feet.

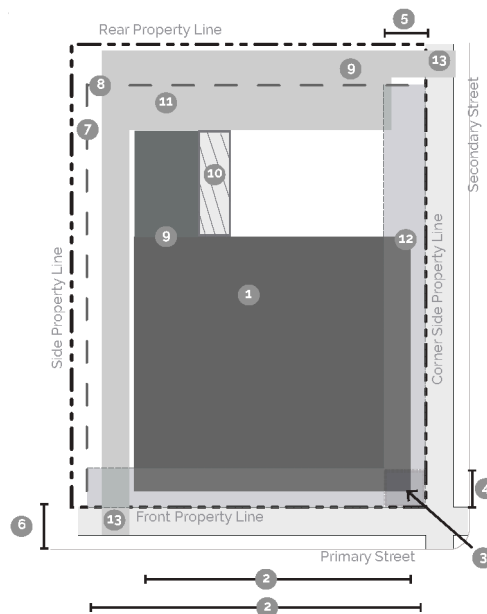


Figure 5.6-13 Building Siting.

**(2) Height (Figure 5.6-14).**

Minimum height <sup>5</sup>	1 story	
Maximum height <sup>4</sup>	3 stories	15
Ground floor (feet)	12 to 30	16
Upper floor (feet)	9 to 15	17

NOTES:

<sup>4</sup> Tower is allowed to be one story taller than the overall building height.

<sup>5</sup> A ground floor height of 20 feet or greater will be counted as two stories for overall building height.

**(3) Uses (Table 4.1-1).**

All floors	Industrial	18
Occupied space restrictions	Not required, except craftsman industrial retail/showroom uses	19
Accessory uses and structures	See Table 4.5-1	

**(4) Street-facing facades (Figure 5.6-15).**

**(a) Transparency (minimum).**

Ground floor (minimum)	40% <sup>6</sup>	19
Upper floor(s)	10%	20
Blank wall limitations	No	21

NOTE:

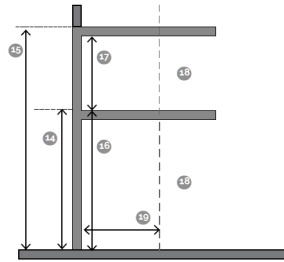
<sup>6</sup> Craftsman industrial uses follow transparency for either the storefront or stoop entrance type. To determine transparency, the measurement can be taken in the location of the retail or showroom element and not along the entire ground floor facade.

**(b) Entrance.**

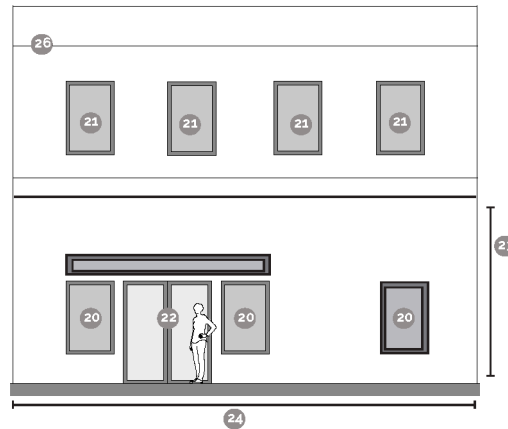
Location	Front facade, building corner	22
Entrance treatment (see § 50-5.5B)	Stoop, storefront	23
Entrances on street-facing facades	1 per 75 feet of building length	24
Other facade entrances	Yes	25

**(c) Roof type.**

Tower	Permitted	26
Spire	Not permitted	



**Figure 5.6-14 Height and Use**



**Figure 5.6-15 Street-Facing Facades.**

G. Lot type: yard - attached. [Amended 5-4-2020 by Ord. No. 2004]

**(1) Building siting (Figure 5.6-16).**

**(a) Street frontage.**

Multiple principal buildings	Yes; up to 5 units may be connected	1
Front lot line coverage (minimum)	60%	2
Occupation of corner	Not required	3
Front build-to zone (feet)	5 to 15 <sup>1</sup>	4
Corner build-to zone (feet)	5 to 15 <sup>1</sup>	5
ROW encroachment	No	6

NOTE:

<sup>1</sup> Stoops and unenclosed porches may be located in the build-to zone.

(b) Lot area.		
Side yard setback (feet)	5 <sup>2</sup>	7
Rear yard setback (feet)	15	8

NOTE:

<sup>2</sup> If buildings are attached, side yard setbacks apply to the set or row of buildings, not each individual building.

(c) Lot coverage.		
Impervious surface (maximum)	60%	9
Semi-impervious surface	15%	10

(d) Parking, loading and access.		
Parking location	Rear, side yards	11
Loading and service location	Not permitted	
Vehicle entrance bay	Rear, side, corner side facades <sup>3</sup>	12
Driveway location	Alley; 1 on corner side or 1 on front if an interior lot	13

NOTE:

<sup>3</sup> Vehicle entrance bays are not permitted to front primary streets unless located outside of the build-to zone.

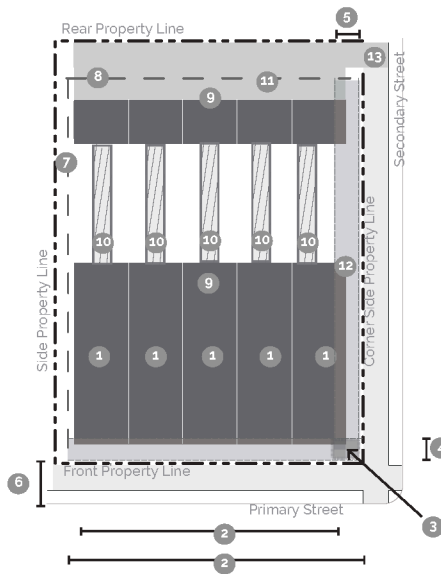


Figure 5.6-16 Building Siting

**(2) Height (Figure 5.6-17).**

Minimum height	1 story; 2 story minimum in D3	14
Maximum height	3 stories	15
All floors (feet)	9 to 14	16

**(3) Uses (Table 4.1-1).**

All floors	Residential/lodging	17
Occupied space restrictions	Not required, except for interior parking	18
Accessory uses and structures	See Table 4.5-1	

**(4) Street-facing facades (Figure 5.6-18).**

**(a) Transparency (minimum).**

Facade transparency (minimum)	30%	19
Blank wall limitations	Yes	20

**(b) Entrance.**

Location	Front facade, building corner	21
Entrance treatment (see § 50-5.5B)	Stoop, porch	22

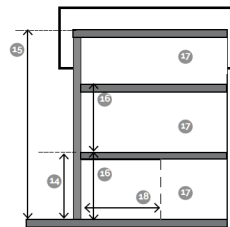
Entrances on street-facing facades	1 per building <sup>4</sup>	23
Other facade entrances	Not required	24

NOTE:

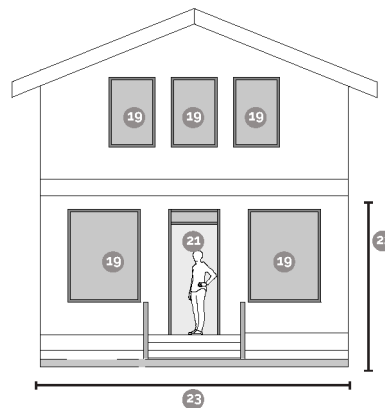
<sup>4</sup> When multiple detached or attached buildings exist on a lot, entrances on buildings behind the front and corner side facade shall be located off a shared open space or courtyard or pedestrian pathway.

**(c) Roof type.**

Tower	Not permitted
Spire	Not permitted



**Figure 5.6-17 Height and Use**



**Figure 5.6-18 Street-Facing Facades**

H. Lot type: yard - detached.

**(1) Building siting (Figure 5.6-19).**

**(a) Street frontage.**

Multiple principal buildings	Yes	1
Front lot line coverage (minimum)	40%	2
Occupation of corner	Not required	3
Front build-to zone (feet)	10 to 25 <sup>1</sup>	4

Corner build-to zone (feet)	10 to 20 <sup>1</sup>	5
ROW encroachment	No	6

NOTE:

<sup>1</sup> Stoops and unenclosed porches may be located in the build-to-zone.

**(b) Lot area.**

Side yard setback (feet)	5	7
Rear yard setback (feet)	10	8

**(c) Lot coverage.**

Impervious surface (maximum)	50% <sup>2</sup>	9
Semi-impervious surface	15%	10

NOTE:

<sup>2</sup> 60% impervious surface permitted when two or more principal buildings are on a lot.

**(d) Parking, loading and access.**

Parking location	Rear, side yards	11
Loading and service location	Not permitted	
Vehicle entrance bay	Rear, side, corner side facades <sup>3</sup>	12
Driveway location	Alley; 1 on corner side or 1 on front if an interior lot	13

NOTE:

<sup>3</sup> Vehicle entrance bays are not permitted to front primary streets unless located outside of the build-to zone.

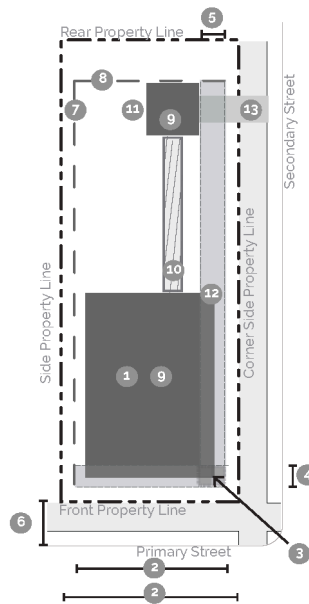


Figure 5.6-19 Building Siting Attached and Detached

**(2) Height (Figure 5.6-20).**

Minimum height	1 story; 2 stories minimum in D3	14
Maximum height	3 stories	15
All floors (feet)	9 to 14	16

**(3) Uses (Table 4.1-1).**

All floors	Residential/lodging	17
Occupied space restrictions	Not required, except for interior parking	18
Accessory uses and structures	See Table 4.5-1	

**(4) Street-facing facades (Figure 5.6-21).**

**(a) Transparency (minimum).**

Facade transparency (minimum)	30%	19
Blank wall limitations	Yes	20

**(b) Entrance.**

Location	Front facade, building corner	21
Entrance treatment (see § 50-5.5B)	Stoop, porch	22



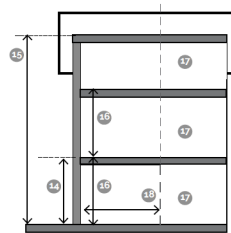
Entrances on street-facing facades	1 per building <sup>4</sup>	23
Other facade entrances	Not required	24

NOTE:

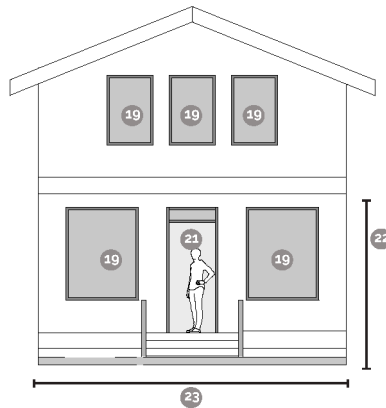
<sup>4</sup> When multiple detached or attached buildings exist on a lot, entrances on buildings behind the front and corner side facade shall be located off a shared open space or courtyard or pedestrian pathway.

**(c) Roof type.**

Tower	Not permitted
Spire	Not permitted



**Figure 5.6-20 Height and Use**



**Figure 5.6-21 Street-Facing Facades**

I. Lot type: outdoor market. [Amended 5-4-2020 by Ord. No. 2004]

**(1) Building siting (refer to Figure 5.6-22).**

**(a) Street frontage.**

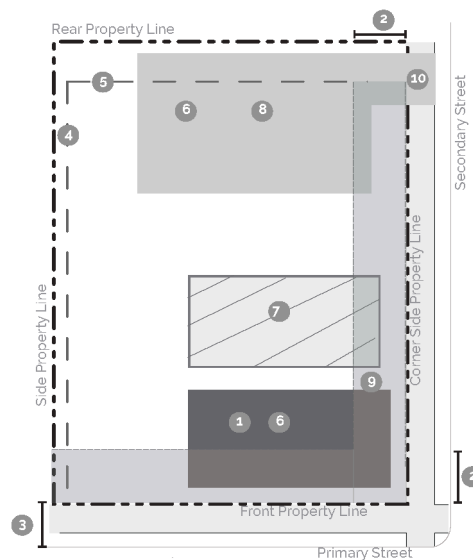
Multiple principal buildings	Yes	1
Front lot line coverage	Not required	
Occupation of corner	Not required	
Front build-to zone (feet)		
Corner build-to zone (feet)	Not required <sup>1</sup>	2

ROW encroachment	Yes	3
<b>(b) Lot area.</b>		
Side yard setback (feet)	10	4
Rear yard setback (feet)	15	5
<b>(c) Lot coverage.</b>		
Impervious surface (maximum)	65% <sup>2</sup>	6
Semi-impervious surface	15%	7

NOTE:

- 1 Except: 0 to 10 feet BTZ is required for outdoor sales, storage and vehicle service.
- 2 A permanent building shall account for no more than 25% of the impervious coverage allowance. This does not apply to such structures as kiosks, shipping containers, greenhouses, or hoop houses, which are considered not permanent for the purposes of impervious coverage.

<b>(d) Parking, loading and access.</b>		
Parking location	Rear yard	8
Loading and service location	Side or rear yard	9
Interior parking entrance bay	Not permitted	
Driveway location	Alley; 1 on corner side front if not an interior lot	10



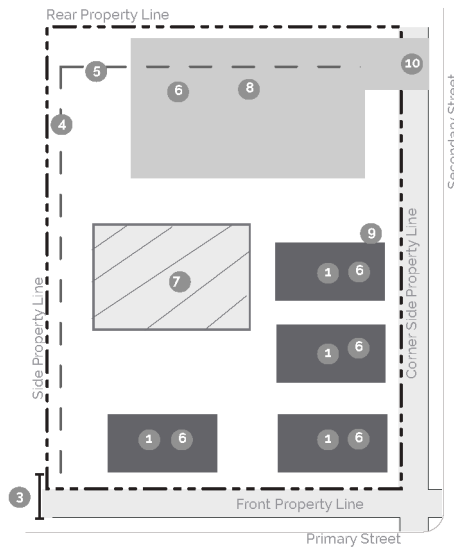


Figure 5.6-22 Building Siting

(2) Height. (Figure 5.6-23)		
Minimum height	1 story	11
Maximum height	1 story	12
Ground floor	Not required	
Upper floor(s)	Not required	
(3) Uses (Table 4.1-1).		
All floors	Commercial, park/open space	13
Occupied space	Not required	14
Accessory uses and structures	See Table 4.5-1	
(4) Street-facing facades (Figure 5.6-23).		
(a) Transparency (minimum).		
Ground floor	Not required <sup>3</sup>	15
Upper floor(s)	Not required	
Blank wall limitations	Not required	
(b) Entrance/counter.		
Location	Not required <sup>3</sup>	16
Entrance treatment (see § 50-5.5B)	Not required <sup>3</sup>	

Entrances on street-facing facades Not required<sup>3</sup>

17

Other facade entrances Not required

NOTE:

<sup>3</sup> When a building is located in the 0 to 10 foot front or corner side build-to zones, it must have an entrance, windows, or service window/counter on the facade facing the adjacent street. Outdoor sales and storage and vehicle service uses must be in buildings with a stoop or storefront entrance treatment.

(c) Roof type.

Tower Not permitted

Spire Not permitted

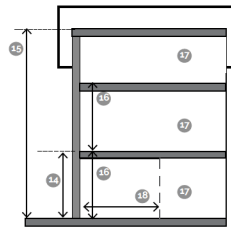


Figure 5.6-23 Street-Facing Facades

ARTICLE 6  
**Zoning Standards: Overlay District Standards**

**§ 50-6.1. Overlay district requirements.**

- A. Applicability. Overlay districts are applied to parcels in addition to the base or underlying zoning district as mapped in the Zoning Map. Unless otherwise provided, an overlay zoning district shall include and be applicable to whole parcels and any parcels subsequently joined or combined with a parcel subject to any overlay zone regulations.
- B. Intent. Overlay districts provide an additional set of requirements for the development and use of parcels with the overlay.
- C. Conflict. If a conflict arises between the overlay district regulations and those of the base zoning district, the overlay district regulations control.

**§ 50-6.2. Natural Features Protection Overlay standards.**

- A. Intent. The NFP Overlay District is intended to protect natural features in the City of Kalamazoo, specifically wetlands, water resources, trees, woodlands, floodplains, slopes, natural heritage areas, and habitat corridors.
- B. Applicability. The NFP Overlay District standards apply as follows.
  - (1) The natural features standards are divided by defined natural feature. When a parcel is developed, redeveloped, or the natural feature is impacted due to any site alterations, the standards for all applicable natural features are applied.
  - (2) The site development standards shall be applied to all parcels in the NFP Overlay District.
  - (3) Overlay standards shall not eliminate the need to obtain a permit from the Michigan Department of Environmental Quality (MDEQ) or any other state, federal, or regional permitting agency, if required.
  - (4) Structures existing on the effective date of the ordinance creating the NFP Overlay District that do not meet the setbacks required in this article are permitted and may be altered or expanded provided that they do not increase the amount of their nonconformance with the standards in this article.
- C. Natural feature standards: wetlands. A wetland is any area, regardless of parcel boundaries, that is characterized by the presence of water at a frequency and duration sufficient to support wetland vegetation or aquatic life, or otherwise defined in Part 303 of the NREPA..<sup>176</sup>
  - (1) Wetland determination. If any area on a parcel appears to be supporting wetland vegetation or is identified on the National Wetlands Inventory (NWI) map, one of the following is required.
    - (a) The area in question shall be treated as a wetland and the standards of this section apply.
    - (b) A wetland determination shall be completed by a qualified professional, such as a professional wetland scientist, to confirm whether the area in question is a wetland.
  - (2) Altering a wetland. Alteration to a wetland is prohibited except as allowed by the NREPA. A copy of any required permits obtained from the State to alter a wetland must be submitted to the City.
  - (3) Wetland setbacks. Setback distance is measured from the outer edge of wetland vegetation. Refer to Figure 6.2-1, Measuring Wetland and Water Resource Setbacks, and Figure 6.2-2, Setbacks Across Parcel Boundaries.

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**176. Editor's Note: See MCLA § 324.301.**

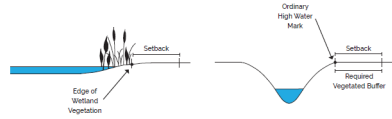


Figure 6.2-1 Measuring Wetland and Water Resource Setbacks

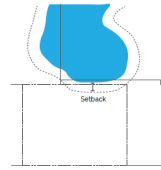


Figure 6.2-2 Setbacks Across Parcel Boundaries

- (a) The size of the wetland setback is based on the size of the parent parcel following the distances in Table 6.2-1, Wetland and Water Resources Setbacks.

<b>Table 6.2-1 Wetland and Water Resources Setbacks</b>	
Size of Parent Parcel (acre)	Minimum Required Setback (feet)
Greater than 1	25
1/2 to 1	20
Less than 1/2	15

- (b) Prohibited activities. The following activities are prohibited in the setback:
  - [1] Development activities, such as structures, impervious surfaces, parking, driveways, etc.
  - [2] New stormwater BMPs.
- (c) Permitted activities. The following activities are permitted in the setback:
  - [1] Water and sewer lines, utility lines, bridge abutments or approaches, or semi-pervious, nonmotorized trailways, may be developed and maintained within a wetland setback with approval from all applicable local, state, and/or federal agencies.
  - [2] Restoration activities, such as planting with native vegetation with approval from all applicable local, state, and/or federal agencies.
  - [3] Mitigation activities required under the NREPA.
- (4) Protection during construction. Appropriate erosion control measures must be used according to Chapter 30 of the Kalamazoo City Code.

D. Natural feature standards: water resources. A water resource is any lake, pond, or impoundment; a river, stream, or creek which may or may not be serving as a drain; or any other body of water that has defined banks, a bed, and visible evidence of a continued flow or continued occurrence of water, or as otherwise defined in Part 301 of the NREPA.<sup>177</sup>

177. Editor's Note: See MCLA § 324.301.

- § 50-6.2 (1) Altering a water resource. Alteration to a water resource is prohibited except as allowed by the NREPA. A copy of any required permits obtained from the state to alter a water resource must be submitted to the City. § 50-6.2
- (2) Water resource setbacks. Setback distance is measured from the ordinary high-water mark of all water resources, including when the water resource is located off the parcel but within the setback distance. Refer to Figure 6.2-1, Measuring Wetland and Water Resource Setbacks, and Figure 6.2-2, Setbacks Across Parcel Boundaries.<sup>178</sup>
- (a) The size of the water resource setback is based on the size of the parent parcel following the distances in Table 6.2-1, Wetland and Water Resources Setbacks.<sup>179</sup>
- (b) Prohibited activities. The following activities are prohibited in the setback:
- [1] Development activities, such as structures, impervious surfaces, parking, driveways, etc.
  - [2] New stormwater BMPs.
- (c) Permitted activities. The following activities are permitted in the setback:
- [1] Up to 20% of the setback area may be developed with semipervious materials, such as paths or mowed turf grass.
  - [2] Water and sewer lines, utility lines, bridge abutments or approaches, or semi-pervious, nonmotorized trailways may be developed and maintained within a water resource setback with approval from all applicable local, state, and/or federal agencies.
  - [3] Disturbance to the bank or shoreline, as expressly allowed under state law, is permitted when a restoration plan is prepared by a qualified professional, such as a Michigan certified natural shoreline professional or professional engineer.
  - [4] Operation and maintenance of existing flood control facilities or stormwater BMPs.
- (3) Required planting. The setback must contain natural vegetation, including a combination of trees, shrubs, grasses, and forbs to form a vegetated buffer in a riparian area. The vegetated buffer must meet one of the following:
- (a) Where the bank or shoreline contains natural vegetation:
- [1] Existing vegetation must remain undisturbed during and after construction activities.
  - [2] Supplemental planting or seeding is allowed when native species are used. Mowed turf grass does not qualify as natural vegetation.
  - [3] Removal of invasive species and/or dead or diseased woody species are allowed, if they are replaced according to the parameters in § 50-6.2D(3)(b)[3].
- (b) Where the bank or shoreline is not covered in natural vegetation:
- [1] A vegetated buffer must be planted and maintained in the setback.
  - [2] Soil preparation for planting is allowed with proper soil erosion controls.
  - [3] A diverse mix of appropriate native species is required, as follows.

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178. Editor's Note: Figures 6.2-1 and 6.2.2 are included in Subsection C(3).

179. Editor's Note: Table 6.2-1 is included in Subsection C(3)(a).

- [a] At least 12 different species must be planted.
- [b] At least two species from each of the following plant types must be planted: shrubs, graminoids, and forbs. Refer to Table 6.2-2, Example Plants for Vegetated Buffers. **[Amended 8-16-2021 by Ord. No. 2037]**

<b>Table 6.2-2 Example Plants for Vegetated Buffers</b>		
Common Name	Scientific Name	Type
Silky dogwood	Cornus amomum	Shrub
Red osier, Red twig dogwood	Cornus stolonifera, sericea	Shrub
Common elderberry	Sambucus canadensis	Shrub
Atlantic ninebark	Physocarpus opulifolius	Shrub
Common winterberry	Ilex verticillata	Shrub
Northern spicebush	Lindera benzoin	Shrub
Highbush blueberry	Vaccinium corymbosum	Shrub
Gray dogwood	Cornus foemina, syn C. racemosa	Shrub
Steeplebush/meadowsweet	Spiraea alba	Shrub
Hardback/steeplebush	Spiraea tomentosa	Shrub
Lake sedge	Carex lacustris	Graminoid
Tussock sedge	Carex stricta	Graminoid
Bottlebrush sedge	Carex hystericina	Graminoid
Bebb's sedge	Carex bebbii	Graminoid
Common fox sedge	Carex vulpinoidea	Graminoid
Prairie cordgrass	Spartina pectinata	Graminoid
Dark-green bulrush	Scirpus atrovirens	Graminoid
Cottongrass bulrush/wool grass	Scirpus cyperinus	Graminoid
Bluejoint grass	Calamagrostis canadensis	Graminoid
Common rush	Juncus effusus	Graminoid
Wood reedgrass	Cinna arundineacea	Graminoid
Fowl mannagrass	Glyceria striata	Graminoid
New England American aster	Symphotrichum novae-angliae	Forb
Flat-topped white aster	Doellingeria umbellata	Forb
Tall sunflower	Helianthus giganteus	Forb
Spotted joe-pye-weed	Eutrochium maculatum	Forb
White turtlehead	Chelone glabra	Forb
Canada anemone	Anemone canadensis	Forb
Common boneset	Eupatorium perfoliatum	Forb



<b>Table 6.2-2 Example Plants for Vegetated Buffers</b>		
Common Name	Scientific Name	Type
Swamp milkweed	Asclepias incarnata	Forb
Cutleaf coneflower	Rudbeckia laciniata	Forb
Pin oak	Quercus palustris	Tree
Swamp white oak	Quercus bicolor	Tree
Black tupelo, Black gum	Nyssa sylvatica	Tree
Tamarack, American larch	Larix laricina	Tree

[c] Trees may be planted if appropriate to the site. Refer to Table 6.2-5, Replacement Tree List.<sup>180</sup>

[4] Any combination of native seed mix, plant plugs, bare root trees or shrubs, and/or container plants, trees, or shrubs is permitted.

(c) Exceptions. The vegetated buffer is not required when a structure or parcel is being redeveloped unless the project increases the site's impervious coverage on the parcel by more than 10% or if the project is being conducted within 20 feet of the water resource setback.

(4) Protection during construction. Appropriate erosion control measures must be used according to Chapter 30 of the Kalamazoo City Code.

(5) Operation and maintenance agreement. The vegetated buffer must be included in the stormwater operation and maintenance agreement, if an agreement is required for the project.

E. Natural feature standards: floodplains. (Reserved)

F. Natural feature standards: trees. Trees that provide special value to the community or ecosystem are protected through the NFP Overlay District. **[Amended 8-16-2021 by Ord. No. 2037]**

(1) Tree criteria. When trees meet any of the following criteria and are not counted as part of a woodland, the tree is considered a protected tree, and the standards of this overlay apply:

(a) Trees on the Protected Tree List in Table 6.2-4.

<b>Table 6.2-4 Protected Tree List</b>		
Common Name	Scientific Name	DBH (inches) <sup>1</sup>
Ash	Fraxinus spp. (not cultivars)	18
Basswood, linden	Tilia americana	18
Beech	Fagus spp.	18
Buckeye (Horsechestnut)	Aesculus spp.	18
Cherry, black	Prunus serotina	18

<sup>180</sup> Editor's Note: Table 6.2-5 is included in Subsection F(4)(a)[3].

<b>Table 6.2-4 Protected Tree List</b>		
<b>Common Name</b>	<b>Scientific Name</b>	<b>DBH (inches)<sup>1</sup></b>
Elm, American	<i>Ulmus americana</i>	18
Elm, slippery	<i>Ulmus rubra</i>	18
Elm, winged	<i>Ulmus alata</i>	18
Fir	<i>Abies spp.</i>	18
Fir, Douglas	<i>Pseudotsuga menziesii</i>	18
Kentucky coffeetree	<i>Gymnocladus dioicus</i>	18
Maple, red	<i>Acer rubrum</i>	18
Maple, silver	<i>Acer saccharinum</i>	18
Maple, sugar	<i>Acer saccharum</i>	18
Pine, red	<i>Pinus resinosa</i>	18
Pine, white	<i>Pinus strobus</i>	18
Spruce	<i>Picea spp.</i>	18
Sycamore, American	<i>Plantanus occidentalis</i>	18
Tuliptree	<i>Liriodendron tuliperifera</i>	18
Walnut, black	<i>Juglans nigra</i>	18
Honey locust	<i>Gleditsia triacanthos</i>	16
Oak, black	<i>Quercus velutina</i>	16
Oak, bur	<i>Quercus macrocarpa</i>	16
Oak, northern red	<i>Quercus rubra</i>	16
Oak, white	<i>Quercus alba</i>	16
Arbor-vitae, Eastern white cedar	<i>Thuja occidentalis</i>	12
Birch	<i>Betula spp.</i>	12
Birch, river	<i>Betula nigra</i>	12
Cherry, flowering	<i>Prunus spp.</i>	12
Eastern hemlock	<i>Tsuga canadensis</i>	12
Hickory, bitternut	<i>Carya cordiformis</i>	12
Hickory, pignut	<i>Carya glabra</i>	12
Hickory, shagbark	<i>Carya ovata</i>	12
Hickory, shellbark	<i>Carya laciniosa</i>	12
Oak, chinkapin	<i>Quercus muehlbergii</i>	12
Oak, northern pin	<i>Quercus ellipsoidalis</i>	12
Oak, swamp white	<i>Quercus bicolor</i>	12

<b>Table 6.2-4 Protected Tree List</b>		
Common Name	Scientific Name	DBH (inches) <sup>1</sup>
Persimmon	Diospyros virginiana	12
Poplar	Populus spp.	12
Sassafras	Sassafras albidum	12
Sweet gum	Liquidambar styraciflua	12
Willow	Salix spp.	12
American chestnut	Castanea dentata	8
Black tupelo, Black gum	Nyssa sylvatica	8
Butternut	Juglans cinerea	8
Cedar, eastern red	Juniperus virginiana	8
Hackberry	Celtis occidentalis	8
Larch/tamarack	Larix laricina	8
Maple, mountain/striped	Acer spicatum/pensylvanicum	8
American hophornbeam	Ostrya virginiana	4
American hornbeam, Blue beech	Carpinus caroliniana	4
Dogwood, flowering	Cornus florida (native only)	4
Pagoda dogwood	Cornus alternifolia	4
Dwarf hackberry	Celtis tenuifolia	4
Eastern redbud	Cercis canadensis	4
Pawpaw	Asimina triloba	4
Serviceberry	Amelanchier spp.	4

NOTES:

- <sup>1</sup> Tree species with DBH greater than or equal to the values in this column of the table require replacement with any species on the Replacement Tree List if removed for construction/development.
- <sup>2</sup> Gray highlight = Tree species must be replaced with a different species from the Replacement Tree List.

- (b) Any tree larger than 24 inches DBH.
- (2) Tree protection. Protected trees and their CRZ shall be protected during site development and construction.
  - (a) Disturbance. No disturbance is allowed within a CRZ, except as follows:
    - [1] Fences are permitted when they meet all other applicable zoning standards.
    - [2] Management of other protected trees or woodlands with a plan by a qualified professional,

such as an International Society of Arboriculture (ISA) certified arborist.

- (b) Protection during construction. The CRZ of protected trees shall be protected following the standards of § 50-6.2K(8), Protection during construction.
- (3) Protected tree removal. Protected trees may be removed in the following circumstances:
  - (a) The protected tree is located such that it impedes access to the site or prevents utility connection, or prevents the use of a property for its zoned purpose.
  - (b) There is clear evidence that a protected tree is diseased, dying, or has sustained substantial damage prior to site work.
  - (c) Location of the protected tree presents a threat to the structural integrity of an existing structure or infrastructure.
- (4) Replacement. Any protected tree which is removed from a parcel as part of a development project that requires site plan review must be replaced at a ratio of 1:1, where for every protected tree removed a tree must be planted as follows:
  - (a) Replacement trees shall be selected from the Replacement Tree List in Table 6.2-5. Site context and site condition should be taken into consideration when selecting a replacement tree.

<b>Table 6.2-5 Replacement Tree List</b>		
Common Name	Scientific Name	Condition Code
Basswood, Linden*	<i>Tilia americana</i>	Cs
American chestnut	<i>Castanea dentata</i> (hybrid)	Cr, F, Cul
American hophornbeam*	<i>Ostrya virginiana</i>	P, Cr
American hornbeam, Blue beech*	<i>Carpinus caroliniana</i>	Cr, P
Arborvitae, eastern white cedar	<i>Thuja occidentalis</i>	Cv, Cs
Birch	<i>Betula</i> spp.	Cv
Birch, river	<i>Betula nigra</i>	P, Ri
Black tupelo, Black gum*	<i>Nyssa sylvatica</i>	Cr, Ri
Cedar, eastern red*	<i>Juniperus virginiana</i>	Cr, P
Cherry, wild black*	<i>Prunus serotina</i>	
Cherry, flowering	<i>Prunus</i> spp.	
Dogwood, flowering*	<i>Cornus florida</i> (native only)	Cr
Eastern redbud	<i>Cercis canadensis</i>	Cr, P
Elm, American	<i>Ulmus americana</i> (resistant variety)	Cul, Cs
Elm, slippery	<i>Ulmus rubra</i>	
Hackberry*	<i>Celtis occidentalis</i>	Cr
Hickory, bitternut*	<i>Carya cordiformis</i>	Cr, F, Ri, Cs

<b>Table 6.2-5 Replacement Tree List</b>		
<b>Common Name</b>	<b>Scientific Name</b>	<b>Condition Code</b>
Hickory, pignut*	<i>Carya glabra</i>	Cr, F, Cs
Hickory, shagbark*	<i>Carya ovata</i>	Cr, F, Cs
Hickory, shellbark*	<i>Carya laciniosa</i>	F, Ri, Sc
Honey locust	<i>Gleditsia triacanthos</i>	Cr
Kentucky coffeetree*	<i>Gymnocladus dioicus</i>	Cr
Larch/tamarack*	<i>Larix laricina</i>	Ri, Cs
Maple, red	<i>Acer rubrum</i>	Cv, Cs
Maple, sugar	<i>Acer saccharum</i>	Cv, Cul
Oak, black*	<i>Quercus velutina</i>	Cr, Cs
Oak, bur*	<i>Quercus macrocarpa</i>	Cr, Cul, Cs
Oak, chinquapin*	<i>Quercus muehlenbergii</i>	Cr, Cs
Oak, pin*	<i>Quercus palustris</i>	Cr, Ri, Cs
Oak, northern red*	<i>Quercus rubra</i>	Cr, Sc
Oak, swamp white*	<i>Quercus bicolor</i>	Cr, Ri, Cs
Oak, white*	<i>Quercus alba</i>	Cr, Cul, Cs
Pawpaw	<i>Asimina triloba</i>	Cr, F
Persimmon	<i>Diospyros virginiana</i>	Cr, F
Pine, red	<i>Pinus resinosa</i>	
Pine, white	<i>Pinus strobus</i>	
Sassafras	<i>Sassafras albidum</i>	
Serviceberry*	<i>Amelanchier</i> spp.	P, F
Sycamore, American*	<i>Plantanus occidentalis</i>	Cr
Tuliptree*	<i>Liriodendron tuliperifera</i>	Cr, Cs
Willow, black	<i>Salix nigra</i>	Ri
Pecan tree	<i>Carya illinoensis</i>	
Sweetgum tree	<i>Liquidambar styraciflua</i>	
Oak, post	<i>Quercus stellata</i>	

## NOTES:

<sup>1</sup> Condition Codes:

Prohibited = Species not to be used as replacement tree.

Cr = Climate resilient

Cs = Carbon sequestration

Cul = Culturally significant

F = Food source

P = Suitable for parking lots and roadways

Ri = Suitable for riparian/wet plantings

Cv = Climate vulnerable

\* Denotes species where one-inch caliper tree may be substituted when Wild-Type is planted (full credit for two-inch caliper applies)

(b) Replacement trees shall be located as follows:

[1] Replacement trees shall be located on the site from which they are removed.

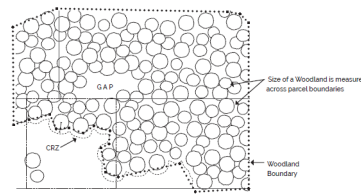
[2] The NFP Review Board can approve alternative locations if on-site replacement is not possible, provided that the alternative is within the City of Kalamazoo.

[3] Replacement trees cannot be located within a parking lot.

G. Natural feature standards: woodlands. Woodlands provide important ecosystem services and habitat corridors and are protected by the NFP Overlay District.

(1) Woodland criteria. When trees located on a parcel meet the following criteria, the area shall be considered a woodland and the standards of this overlay apply:

(a) Minimum area. Trees cover a minimum area of 21,780 square feet or a half acre, regardless of parcel boundaries. Refer to Figure 6.2-3, Defining and Delineating a Woodland.



(b) Tree count. The area contains the equivalent of at least 40 trees per acre of at least two inches DBH and reach or at maturity will reach at least 50 feet in height.

(c) Natural ground cover. No more than 25% of the ground area is mowed turf grass. **[Amended 8-16-2021 by Ord. No. 2037]**

(d) Understory. The area contains a layering of shorter understory trees and/or shrubs and forbs.

(2) Woodland delineation and assessment. Refer to Figure 6.2-3, Defining and Delineating a Woodland. Existing woodland coverage on the parcel shall be delineated and assessed as follows:

(a) Gaps. Areas without trees or that have sparse trees are common within a woodland and should be included in area and density measurements except when the gap is larger than 8,000 square feet.

(b) Woodland assessment tools. A woodland must be assessed using a basal area, woodland ecosystem assessment, or tree survey conducted by a qualified professional, such as an ISA certified arborist.

(3) Woodland protection. For areas meeting the definition of a woodland, a portion of the woodland on the parcel must be preserved as follows:

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- (a) Woodland preservation minimums. Woodlands shall be preserved following the coverage requirements in Table 6.2-3, Woodland Preservation.

<b>Table 6.2-3 Woodland Preservation</b>	
<b>Woodland Coverage of Parent Parcel</b>	<b>Minimum Required Woodland Coverage to be Preserved</b>
75% to 100%	25%
50% up to 75%	50%
25% up to 50%	75%
Less than 25%	90%

- (b) Criteria for woodland preservation. In determining which areas of a woodland are to be preserved, the following priorities shall be applied:

- [1] Woodlands contiguous to woodlands on adjacent parcels or areas serving as habitat corridors.
- [2] Woodlands on or adjacent to another natural feature(s), floodplain, or a publicly accessible open space.
- [3] Woodlands in the best condition as determined by a qualified professional, such as an ISA certified arborist, and based upon the basal area score or another woodland ecosystem assessment.
- [4] Woodlands with older growth, higher DBH trees, or trees noted in Table 6.2-4, Special Status Tree List, and Table 6.2-5, Replacement Trees List.<sup>181</sup>

(4) Prohibited activities.

- (a) Disturbance. No disturbance is allowed within a woodland preserved area, the boundary of which is defined by the CRZ of trees along its edges, except for the following activities.

- [1] Fences are permitted when they meet all other applicable zoning standards.
- [2] Management of the woodland vegetation with a plan by a qualified professional, such as an ISA certified arborist.

- (b) Stormwater. No new stormwater BMPs within the CRZ.

(5) Permitted activities. Operation and maintenance of public utilities is permitted within the CRZ. Directional boring shall be used whenever possible.

(6) Construction protection. Woodlands trees and their CRZ shall be protected during site construction following the standards of § 50-6.2K(8), Protection during construction.

H. Natural feature standards: slopes. Slopes associated with water resources and other natural features are protected by the NFP Overlay District.

- (1) Slope criteria. Slopes protected by the NFP Overlay District are those with a grade of 20% or greater and meet at least one of the following:

- (a) Slope face contains a woodland: refer to § 50-6.2G.

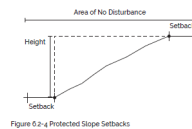
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**181.Editor's Note: Table 6.2-4 is included in Subsection F(1)(a), and Table 6.2-5 is included in Subsection F(4)(a)[3].**

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- (b) Slope face contains natural heritage area: refer to § 50-6.2I.
  - (c) Any portion of the slope face is within 500 feet of a wetland or water resource: refer to §§ 50-6.2C and 50-6.2D.
  - (d) Any portion of the slope face extends onto adjacent parcels.
- (2) Slope determination. If any area on a parcel appears to meet the slope criteria, one of the following is required:
- (a) A slope analysis by a professional is not completed and the area is assumed to meet the slope criteria; the standards of this overlay are applied.
  - (b) A slope analysis shall be completed by a licensed surveyor, licensed professional engineer, or a geologist certified by the American Institute of Professional Geoscientists (AIPG) following all acceptable practices to determine whether any part of the slope face meets the slope criteria.
- (3) Slope protection. Slopes shall be maintained and protected as follows:
- (a) Setbacks. A setback is required from the top of slope and the toe of slope equal to half the height of the slope, regardless of whether or not the entire slope is contained within the parcel, or 10 feet, whichever is greater. Refer to Figure 6.2-4, Slope Setbacks.



- (b) Permitted activities in the setbacks. Setback areas from the top or toe of slope shall remain undisturbed except as follows:
  - [1] Any work necessary to maintain the stability of the slope.
  - [2] Restoration and management of other natural features, provided that they meet the requirements of this overlay.
  - [3] Fences are permitted when they meet all other applicable zoning standards.
  - [4] Normal maintenance that does not disturb existing terrain.
  - [5] Maintenance of existing impervious surfaces and structures.
  - [6] In addition to the requirements in § 50-6.2B(4), existing structures located in the setback may be expanded up to 25% of the existing building footprint as follows:
    - [a] The expansion does not disturb the slope face.
    - [b] Ground disturbance is the minimum needed for the expansion.
- (c) Permitted activities in the slope face. The slope face shall remain undisturbed except as follows:
  - [1] Any work necessary to maintain the stability of the slope face, including the top and toe of slope.
  - [2] Restoration and management of other natural features, provided that they meet the requirements of this overlay.



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- [3] Normal maintenance that does not disturb existing terrain.
  - [4] Maintenance of existing impervious surfaces and structures.
  - [5] In addition to the requirements in § 50-6.2B(4), existing structures where a portion of the structure is in the slope face may be expanded up to 25% of the existing building footprint as follows:
    - [a] The expansion can only occur on slopes with a grade of 30% or less.
    - [b] Expansion in the slope face is limited to no more than 15% of the existing building footprint.
    - [c] Ground disturbance is the minimum needed for expansion.
  - (d) Prohibited activities. The following activities are prohibited:
    - [1] Surface water shall not be directed toward any slope regulated by this overlay.
    - [2] Stormwater BMPs are not permitted within the slope face or the setbacks, including storm sewer outlets.
    - [3] No new underground utilities may be placed within the slope face or setbacks.
  - (e) Construction protection. The slope face and setbacks shall be protected during site development and construction following the standards of § 50-6.2K(8), Protection during construction.
- I. Natural feature standards: natural heritage areas. Rare species and remnants of historically and culturally significant ecosystems are protected by the NFP Overlay District.
- (1) Natural heritage area criteria. A natural heritage area is defined by the presence of either of the following:
    - (a) Any species considered to be rare, threatened, or endangered by the State of Michigan, federal government, or listed on the Michigan Natural Features Inventory (MNFI) Database.
    - (b) Any remnant of a natural community listed on the MNFI Michigan's Natural Communities List.
  - (2) Determination of natural heritage area. The MNFI Natural Heritage Database shall be used to determine if any rare species have been located within a two-mile radius of the parcel.
  - (3) On-site survey. When a database search indicates a rare species has been identified within two miles of the parcel, an on-site survey shall be conducted. The survey must be conducted by a consultant with a Michigan endangered species permit or another qualified professional approved by the City Planner
  - (4) Natural heritage area protection. If the on-site survey confirms that a natural heritage area exists on the parcel, all state and federal protections and/or mitigation activities must be followed. A copy of any required permit obtained from a state or federal agency must be submitted to the City.
- J. <sup>182</sup>Site development standards. The following standards apply to all properties within the NFP Overlay District:
- (1) Building setbacks. When a conflict exists between meeting the NFP standards in § 50-6.2C through J and the required placement of structures, the setbacks or built-to zones or lines may be adjusted to eliminate or reduce the conflict provided that the adjustment is the minimum required to meet the NFP

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182. Editor's Note: Former Subsection J, Natural feature standards: habitat corridors, which was reserved, was repealed 8-16-2021 by Ord. No. 2037. This ordinance also provided for the redesignation of former Subsections K through N as Subsections J through M, respectively.

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standards.

- (2) Use. In addition to the uses permitted in the base zoning district, the following apply:
- (a) Appendix A, § 3.5, Wellhead Protection Overlay ten-year use restrictions.
  - (b) Outdoor storage of loose materials is prohibited within 500 feet of a water resource or wetland.
  - (c) Appendix A, § 3.5, Wellhead Protection Overlay one-year use restrictions apply within 500 feet of a water resource or wetland.
- (3) Lot coverage. Areas designated to meet the pervious surface requirement of the base zoning district shall meet the following requirements:
- (a) Natural features. Areas left undisturbed per the standards in § 50-6.2C through J can be applied to a parcel's pervious lot coverage requirement, except that stormwater BMPs shall count at a ratio of two square feet of BMP to one square foot of pervious coverage ratio or at a rate of 50%.
  - (b) Undisturbed areas. All areas designated to meet a parcel's overall pervious lot coverage requirement must remain undisturbed except in the following circumstances:
    - [1] Restoration or maintenance of the pervious area when guided by a plan developed by a qualified professional.
    - [2] Planting or restoration of plants or trees per the natural features standards of § 50-6.2.
    - [3] Installation of stormwater BMPs from the Michigan Low Impact Development (LID) Manual BMP Matrix Table in the Runoff Volumes and Infiltration Categories.
  - (c) Location. Areas designated to meet a parcel's overall pervious lot coverage requirement shall be located as follows:
    - [1] Contiguous. Pervious areas shall be located in one contiguous area or clustered into areas that each equal at least 20% of the total pervious area.
    - [2] Adjacent to natural features. Pervious areas shall be located adjacent to defined natural features.
  - (d) Construction. Pervious areas shall be protected during construction and site development through barrier fencing as described in § 50-6.2K(8).
  - (e) Semi-pervious allowance. A semi-pervious allowance of up to 15% may be utilized to meet the lot coverage requirement.
- (4) Landscape and screening. Additional landscape and screening activities apply within the NFP Overlay District.
- (a) Relief. reduction in a parcel's required building perimeter, parking lot, loading zone, perimeter screening, or interior landscaping requirements (refer to Appendix A, § 6.2, Landscaping and Open Space) may be permitted to eliminate conflicts with meeting the requirements of § 50.6-2.
    - [1] Relief shall be the minimum required to meet the NFP standards.
    - [2] Landscaping serving as a buffer between residential and nonresidential uses and between a vehicular parking lot and a street shall not be reduced.
  - (b) Plant selection. Native species must be used for all site landscaping required under Appendix A, § 6.2, Landscaping and Open Space, or required elsewhere in Chapter 50. When additional

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landscaping is proposed on the site plan beyond the minimum requirements of Chapter 50, the NFP Review Board may allow the use of nonnative, noninvasive species which have been determined not to cause adverse environmental impacts. Plants in Table 6.2-6, Prohibited Planting List, or species recognized by the Midwest Invasive Species Network as nonnative invasive shall not be planted on any portion of a parcel. [Amended 8-16-2021 by Ord. No. 2037]

<b>Table 6.2-6 Prohibited Planting List</b>	
<b>Common Name</b>	<b>Scientific Name</b>
<b>Trees</b>	
Norway maple	<i>Acer platanoides</i>
Tree-of-heaven	<i>Ailanthus altissima</i>
Silk tree	<i>Albizia julibrissin</i>
Russian olive	<i>Elaeagnus angustifolia</i>
Black locust	<i>Robinia pseudoacacia</i>
Siberian elm	<i>Ulmus pumila</i>
Callery pear	<i>Pyrus calleryana</i>
Princess tree	<i>Paulownia tomentosa</i>
Black alder	<i>Alnus glutinosa</i>
<b>Shrubs</b>	
Japanese barberry	<i>Berberis thunbergii</i>
Common barberry	<i>Berberis vulgaris</i>
Autumn olive	<i>Elaeagnus umbellata</i>
Glossy buckthorn	<i>Frangula alnus</i>
Common or european privet	<i>Ligustrum vulgare</i>
Showy fly honeysuckle (or hybrid)	<i>Lonicera x. bella</i>
Amur honeysuckle	<i>Lonicera maackii</i>
Morrow honeysuckle	<i>Lonicera morrowii</i>
Tatarian honeysuckle	<i>Lonicera tatarica</i>
Common buckthorn	<i>Rhamnus cathartica</i>
Multiflora rose	<i>Rosa multiflora</i>
Japanese meadowsweet	<i>Spiraea japonica</i>
European cranberrybush	<i>Viburnum opulus</i>
<b>Vines</b>	
Asian bittersweet	<i>Celastrus orbiculatus</i>
Black swallow-wort	<i>Cynanchum louiseae</i>
European swallow-wort	<i>Cynanchum rossicum</i>
English ivy	<i>Hedera helix</i>

<b>Table 6.2-6 Prohibited Planting List</b>	
<b>Common Name</b>	<b>Scientific Name</b>
Japanese honeysuckle	Lonicera japonica
Mile-a-minute weed	Persicaria perfoliate
Kudzu	Pueraria montana
<b>Grasses</b>	
Reed canary grass	Phalaris arundinacea
Common reed	Phragmites australis
Japanese stiltgrass	Microstegium vimineum
<b>Herbs</b>	
Garlic mustard	Alliaria petiolata
Spotted knapweed	Centaurea biebersteinii or C. maculata
Canada thistle	Cirsium arvense
Bull thistle	Cirsium vulgare
Leafy spurge	Euphorbia esula
Dame's rocket	Hesperis matronalis
Creeping jenny or moneywort	Lysimachia nummularia
Purple loosestrife	Lythrum salicaria
Japanese knotweed	Polygonum cuspidatum
Giant knotweed	Polygonum sachalinense
Crown vetch	Securigera varia
Baby's breath	Gypsophila paniculate
Goutweed	Aegopodium podagraria
Lesser celandine	Ficaria verna
Moneyplant	Lunaria annua
Sweet woodruff	Galium odoratum
Sweet clovers	Melilotus spp.
<b>Aquatic Plants</b>	
	Euonymus fortune
	E. euopaeus
	E. alata
	Miscanthus sp.

- (c) Existing vegetation. When a parcel's existing vegetation is being preserved and utilized to meet landscaping requirements in Appendix A, § 6.2, Landscaping and Open Spaces, the following apply:

[1] Existing nonnative plants must be contained within the planting areas.

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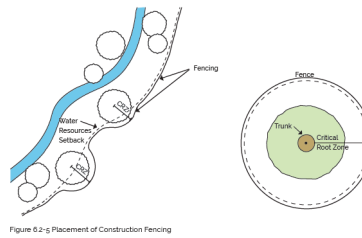
- [2] Existing invasive plants must be removed. Refer to Meeting the Challenge of Invasive Plants by MNFI or Table 6.2-6, Prohibited Planting List.
- (5) Lighted signs. Internally illuminated, automatic changeable copy, and blinking and/or flashing lighted signs are not permitted within 300 feet of a preserve.
- (6) Stormwater management criteria. Refer to the City of Kalamazoo Performance Standards for Groundwater Protection within Wellhead Protection Capture Zones for additional information and definitions.
- (a) Channel protection performance standard. Parcels 1/2 acre or greater shall maintain the post-development project site runoff volume and peak flow rate at or below predevelopment levels for all storms up to the ten-year, twenty-four-hour event.
- (b) Water quality treatment runoff volume standard. The first one inch of runoff generated from the entire parcel must be treated using one of the following:
- [1] Multiple methods. Two or more BMPs shall be utilized with at least 25% of the required runoff volume treated by BMPs from the Low Impact Development Manual for Michigan, Table 7.1 BMP Matrix Table from Runoff Volume/Infiltration and Runoff Volume/Non-infiltration Categories.
- [2] Underground methods. All required runoff shall be treated by underground detention or infiltration BMPs.
- [3] Noninfiltration methods. Sites requiring noninfiltration BMPs, such as those with contamination or within Wellhead Protection Overlay,<sup>183</sup> use BMPs from Low Impact Development Manual for Michigan, Table 7.1 BMP Matrix Table, Runoff Quality/Non-infiltration Category.
- (c) Maintenance agreement. A stormwater operation and maintenance agreement is required by and between the City of Kalamazoo and the owner of the property when stormwater BMPs are used.
- (d) Exceptions. Development or redevelopment of a single-family home or duplex is exempt from these stormwater standards.
- (7) Fill materials. Use of fill material containing regulated substances above any state and/or federal cleanup criteria for soils is prohibited. Fill material shall be sourced as follows:
- (a) Fill material shall not be sourced from industrial or commercial sites where hazardous materials were used, handled, or stored or from unpaved parking areas.
- (b) Fill material shall not be sourced from sites that contain species that are legally designated by the State of Michigan as prohibited or restricted.
- (8) Protection during construction. A temporary construction fence is required to protect natural features and not-to-be disturbed areas, such as those designated to meet pervious lot coverage requirements, during the duration of any site work or construction.
- (a) Fence construction. Construction fences shall be erected as follows:
- [1] Fencing must be built using posts six feet in height, spaced no more than eight feet apart on center and buried at least two feet below grade.
- [2] Fence must have two cross beams placed approximately at two and six feet above grade.

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[3] Plastic mesh barrier fence shall be affixed to the front of the posts.

(b) Fence placement. Refer to Figure 6.2-5, Placement of Construction Fencing. Fencing shall be located no closer than the required setback or edge of a not-to-be disturbed area.



[1] Where a tree is located in the setback or not-to-be disturbed area, the fencing shall be placed to protect the CRZ. Refer to Figure 6.2-5, Placement of Construction Fencing.

[2] Trees and woodlands protected through §§ 50-6.2F and 50-6.2G shall have construction fencing placed outside of the CRZ.

(c) Prohibited activities. The following activities are prohibited within the construction fencing:

[1] Spreading of soil spoils.

[2] Heavy equipment and vehicle traffic.

[3] Storage of construction materials and debris.

[4] Site grading changes that increase or decrease the moisture conditions within a CRZ on a temporary or permanent basis.

K. NFP review bodies and processes. Projects located in the NFP Overlay District require special review.

(1) Project review. Review of projects in the NFP Overlay District shall occur as follows:

(a) Where site plan is not required. Administrative review of the site development or construction permit request shall be completed by the City Planner or designee.

(b) Where site plan is required. The NFP Review Board shall review the NFP Plan in conjunction with the site plan review process. NFP Review Board approval is required for a project to achieve site plan approval.

(c) Where site plan is required and a zoning review from the Planning Commission is requested and/or Zoning Board of Appeals is requested or the site is located within 100 feet of a wetland or water resource or adjacent to land publicly used for open space or recreation, the following shall occur prior to review by the NFP Review Board.

[1] Owner or developer shall send notice by first class postage paid of a project in the NFP Overlay District to all property owners and occupants within 300 feet of the parcel and the neighborhood association or contact.

[2] Notice shall at a minimum include information on the proposed project, a location (physical or digital) where plans can be reviewed, instructions on how to provide comments, and a timeline for project review and construction.

[3] Notice shall be postmarked a minimum of 14 days before application is made for review by the NFP Review Board.

- § 50-6.2 (2) NFP Review Board. A board will be formed to review projects in the NFP Overlay District. § 50-6.2
- (a) Intent. The NFP Review Board will review projects to ensure the standards of the NFP Overlay District are met and assist the City with regular review of the NFP standards, map, outreach, and City-wide education.
  - (b) NFP Review Board members.
    - [1] Board will be comprised of seven members.
    - [2] Members will be those who live or work in the greater Kalamazoo community.
    - [3] At a minimum, the Board must have at least one member with education or experience in each of the following features in this chapter:
      - [a] Water resources/wetlands;
      - [b] Plants/trees;
      - [c] Slopes; and
      - [d] Site development/building construction.
    - [4] Board members are to be appointed by the Mayor and approved by the City Commission.
    - [5] A City staff will be appointed by the City Planner to be the Board's liaison.
  - (c) The NFP Review Board is subject to the Open Meetings Act, MCL § 15.261 et seq., and shall establish its own bylaws and meeting procedures.
- (3) Relief from NFP Overlay District standards. Relief from the NFP Overlay District standards may be sought from the Zoning Board of Appeals.
- (a) Criteria. Relief from the NFP Overlay District Standards in § 50-6.2 may be granted when all the following conditions are met.
    - [1] The parcel cannot be reasonably utilized for its zoned use without the requested relief.
    - [2] The extent of relief requested is the minimum needed to permit reasonable utilization of the site.
    - [3] It is demonstrated that the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the NFP Overlay District.
    - [4] The requested relief is balanced by the use of conservation and/or green development tools and actions, such as utilizing stormwater BMPs from the Michigan Low Impact Development Manual that promote infiltration, restoration or expansion of a natural feature on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List.<sup>184</sup>
  - (b) Process. The following process shall be followed when relief is sought from § 50.6-2, Natural Features Protection Overlay Standards.
    - [1] NFP Review Board shall review the request using the NFP site plan documentation and make a recommendation on the requested relief to the Zoning Board of Appeals.
    - [2] Application for relief from the Zoning Board of Appeals must include the NFP Review

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**184. Editor's Note: Table 6.2-5 is included in Subsection F(4)(a)[3].**

## L. Bonding of projects.

- (1) Intent. To ensure the protection of natural features, a financial assurance will be required when seeking site development permits for a lot or structure from the City of Kalamazoo.
- (2) Applicability. During the review and approval of all NFP site plans, the NFP Review Board will determine whether a bond or lien is required for NFP projects based on: **[Amended 8-16-2021 by Ord. No. 2037]**
  - (a) Whether natural features are present on the site such that the cost of replacement or restoration if damaged or destroyed during construction would place an undue burden on the City if not remedied in a reasonable time frame.
  - (b) The activities proposed on the site present a reasonable threat of damaging or destroying natural features.
- (3) Financial assurance amount. The amount of the assurance shall be in an amount satisfactory to the City to restore and/or stabilize a natural feature that has been disturbed, not properly managed during site work or construction, or has been abandoned for more than six months.
- (4) Release of financial assurance. The assurance shall be released when a certificate of occupancy is granted. Except when a project includes a vegetated buffer or required tree planting where the assurance may be reduced by 60% at the time of the certificate of occupancy is granted with the remaining percentage released no sooner than three years after the granting of the certificate of occupancy.

## M. Penalty. A violation of the provisions of this chapter is a municipal civil infraction punishable as follows.

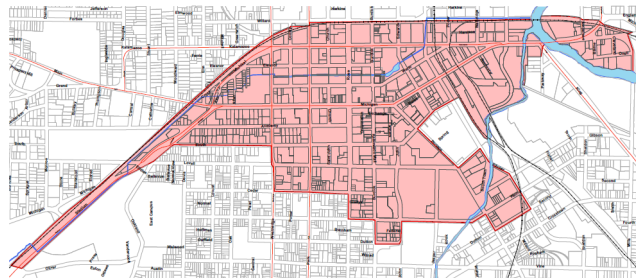
- (1) Any person, firm, or corporation violating any provision of this chapter is responsible for a municipal civil infraction and shall be fined up to \$2,500 for each violation. A civil infraction citation for a violation of this chapter may be issued by the Building Official, or by such person as the City Commission or City Manager may designate.
- (2) Each day a violation exists or continues shall be deemed as a separate offense.
- (3) Any person, firm, or corporation found responsible for a subsequent violation of this chapter within two years of having been found or admitted responsible for a violation of this chapter shall be responsible for a civil fine of up to \$5,000.
- (4) Imposition of court-imposed costs.
- (5) Issuance of an order by the court to replace, mitigate, or restore a natural feature damaged or destroyed by a violation.



ARTICLE 7  
**Parking and Loading Regulations**

**§ 50-7.1. General requirements.**

- A. Applicability. Unless otherwise stated, parking and loading shall be provided as is outlined in this chapter.
- B. General provisions.
- (1) Accessible parking. Parking facilities accessible for persons with disabilities shall be in compliance with or better than the standards detailed in the state and federal building or accessibility requirements, including quantity, size, location, and accessibility.
  - (2) Requirements for unlisted uses. Parking spaces will be provided as detailed in Table 7.2-1. If a use is not listed, the City Planner is authorized to apply standards for a use deemed as similar. In the instance where an equivalent may not be clearly determined, the City Planner may require a parking study, transportation management plan, or other evidence that will help determine the appropriate requirements.
- C. Exempt areas. **[Amended 6-6-2022 by Ord. No. 2049]**
- (1) Downtown and Neighborhood Nodes. Lots located in the Downtown Exempt Parking Area (refer to Figure 7.1-1) and zoned Neighborhood Node are exempt from the requirement to provide off-street parking spaces. Spaces that are provided must adhere to all applicable requirements including design, layout, and landscaping.



**Figure 7.1-1 Downtown Exempt Parking Map**

- (2) Commercial Nodes. Lots in the Commercial Node District are permitted a 25% reduction of the required off-street parking. Spaces that are provided must adhere to all applicable requirements, including quantity, design, layout and landscaping.
- (3) Small commercial establishments. A commercial establishment, including the nonmanufacturing element of craftsman industrial, containing up to 2,000 square feet of floor area, not located in the Community Commercial (CC) zoning district, shall be exempt from all requirements to provide off-street parking spaces.

**§ 50-7.2. Required vehicular off-street parking spaces.**

- A. Required Parking Table.
- (1) Table 7.2-1 outlines the required off-street parking spaces. **[Amended 6-6-2022 by Ord. No. 2049]**

**Table 7.2-1  
Required Parking Table**

Use	Required Spaces
<b>Residential/Lodging</b>	
Hotel/motel	0.75 per 1 guest room plus 1 per employee on largest shift; CC District: 1 per 1 guest room plus 1 per employee on largest shift
Bed-and-breakfast	1 per guest room; 1 for innkeeper/home occupant
Dormitory	1 per 3 beds or per City-approved campus master plan
Nursing home/assisted living/rehabilitation center/adult foster care	1 per employee on largest shift; 1 per facility vehicle; 1 per 5 beds
Residential	1 per dwelling unit <sup>1</sup>
Residential: senior housing	0.5 per dwelling unit
Residential: off-campus student housing/ RM-15C	2 per dwelling unit
Rooming house	1 per unit or bedroom
Transitional residence	1 per 2 employees on largest shift
<b>Civic/Institutional Uses</b>	
Assembly/theater	1 per 3 persons permitted at maximum occupancy
Assembly, religious	1 per 6 seats in worship area or 1 per 40 square feet without seats
College and university	Based on similar use or per City-approved campus master plan
Hospital	1 per 3 beds or per City-approved campus master plan
Library and museum	1 per 3 persons permitted at maximum occupancy
Police and fire station/utilities and public services	1 per employee on largest shift
School	2 per 3 employees as largest shift, plus 1 per 10 students enrolled in grades 10 to 12
<b>Commercial</b>	
Agriculture	1 per employee on largest shift
Day care	1 per employee on largest shift, in addition commercial facilities: 1 per 5 children permitted at maximum occupancy
Eating and drinking establishments	1 per 5 persons at maximum occupancy; 1 per 2 employees at largest shift
Entertainment sports	
Participant	1 per 5 persons at maximum occupancy; 1 per 2 employees at largest shift
Spectator	1 per 6 fixed seats or 1 per 40 square feet without seats
Retail/services	1 per 330 square feet

<b>Table 7.2-1 Required Parking Table</b>	
<b>Use</b>	<b>Required Spaces</b>
Kennels	1 per employee on largest shift; 1 per 3 animals permitted at maximum occupancy
Office	1 per 300 square feet
Outdoor sales and storage	1 per employee at largest shift; 1 per 2,500 square feet outdoor sales area
Self-storage/mini-storage	1 per employee on largest shift; 1 per 75 storage units
Vehicle service	1 per 200 square feet floor area; in addition, vehicle repair: 2 per repair bay or area
Vehicle service: car wash	1 per employee on largest shift
<b>Industrial</b>	
Craftsman industrial	1 per employees on largest production shift; 1 per 500 square feet retail
Industrial	1 per 1 employee on largest shift (includes shift, office, and maintenance staff)

**NOTES:**

<sup>1</sup>For detached and attached dwelling units, up to two spaces per unit are permitted.

- (2) Total required vehicular parking spaces should be determined using the following parameters in addition to Table 7.2-1.
  - (a) Fractions. In determining the number of spaces required, any fraction of spaces required under 1/2 shall be disregarded; a fraction equal to or greater than 1/2 shall be rounded up to count as one space.
  - (b) Maximum parking spaces provided. Off-street parking may not be provided in an amount greater than 110% of the minimum parking requirement.
  - (c) On-street parking credit.
    - [1] Up to 20% of the parking requirement for commercial and industrial craftsman uses can be met with on-street parking located within 660 feet of the site.
    - [2] Up to 20% of the parking requirement for residential uses can be met with on-street parking located within 660 feet of the site where overnight parking is permitted.
  - (d) Shared parking. Credit for shared off-street parking is calculated as follows:
    - [1] Off-site location. Spaces in off-site parking facilities within 660 feet can be applied to the parking requirements for a lot.
    - [2] Multiple uses credit. When multiple uses share parking facilities, the quantity of spaces provided should be calculated as follows.
      - [a] Shared peak demand times. Businesses with the same peak parking demand times that share parking facilities shall reduce the quantity provided by 5%.

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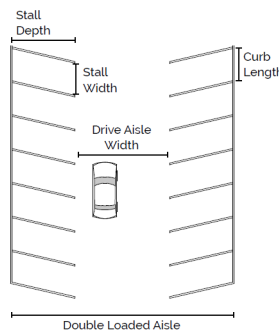
- [b] Different peak demand times. Business with different peak parking demand times can reduce their required parking spaces using Table 7.2-2, Parking Times Per Use Category.

<b>Table 7.2-2 Parking Times Per Use Category</b>						
Uses Category	Weekdays			Weekends		
	Midnight to 7:00 a.m.	7:00 a.m. to 6:00 p.m.	6:00 p.m. to Midnight	Midnight to 7:00 a.m.	7:00 a.m. to 6:00 p.m.	6:00 p.m. to Midnight
Residential	100%	50%	80%	100%	80%	80%
Hotel/motel/bed-and-breakfast	100%	65%	100%	100%	65%	100%
Assembly, religious	0%	30%	50%	0%	100%	75%
Retail and services	5%	100%	80%	5%	100%	60%
Eating and driving establishments	50%	70%	100%	70%	60%	100%
Entertainment (spectator, participant) and assembly	5%	30%	100%	5%	80%	100%
Office	5%	100%	5%	5%	5%	5%

- [i] Determine the required number of spaces per use, following Table 7.2-1, Required Parking Table.
  - [ii] Applying the percentages in Table 7.2-2 determine the number of spaces needed per use in each of the six time periods.
  - [iii] For each time period, add the number of spaces needed for all applicable use categories to obtain a total for each of the six time periods.
  - [iv] The time period with the highest total of parking spaces is the number of spaces required for the site.
- (e) Bicycle facilities. For every 10 required bicycle parking spaces, the required number of vehicular spaces may be reduced by one. Refer to § 50-7.3, Required bicycle parking.
  - (f) Administrative reduction. City Planner may reduce the number of required parking spaces by up to 10% if the applicant can document that the required number of parking spaces will not be fully utilized.
- B. Vehicular parking design and location. Vehicular parking facilities shall be provided using the following standards.
- (1) Design. Vehicular parking shall be designed as follows:
    - (a) Space dimension. Parking space design shall follow the dimensions in Table 7.2-3, Minimum Parking Space and Aisle Dimensions, and Figure 7.2-1, Parking Space and Drive Aisle Dimensions.

**Table 7.2-3  
Minimum Parking Space and Aisle Dimensions**

Angle of Parking (degrees)	Stall Dimensions			Drive Aisle Width	
	Curb Length (feet)	Stall Width (feet)	Stall Depth (feet)	One Way (feet)	Two-Way (feet)
0° (Parallel)	18	8	18	12	20
45°	12	8.5	18	12	20
60°	10	8.5	18	18	20
90°	8.5	8.5	18	20	20



**Figure 7.2-1 Parking Space and Drive Aisle Dimensions**

- (b) Wheel stops. Wheel stops or bumper guards are required for spaces adjacent to property lines, landscape buffers, and pedestrian pathways, internal to site or in public right-of-way.
- (c) Tandem spaces. Tandem spaces are permitted as follows:
  - [1] Two spaces may be placed in tandem, provided that one space is accessible by an aisle, driveway, or alley.
  - [2] Tandem spaces are permitted for use by residential units only and must be utilized by the occupants of the same dwelling unit.
- (d) Slope. All parking areas, driveways, and sidewalk access to parking areas shall meet the requirements of the American Disabilities Act.
- (e) Materials. Parking areas may be designed with impervious or semipervious materials, such as concrete, asphalt, macadam, brick, and stone.
  - [1] Gravel and crushed stone are permitted for parking lots for residential parking areas up to 10 spaces and for all parks and open space uses. Additional application of these types of material may be permitted with approval of the City Planner.
- (f) Landscape areas.
  - [1] Areas not used for sidewalks, parking spaces, drive aisles, loading, or refuse shall be constructed and maintained as landscaped areas.
  - [2] The perimeter of a parking lot shall be treated with fencing and/or landscaping along all property lines following Appendix A, § 6.2, Landscaping and Open Spaces.

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- (g) Lighting. Parking areas with 50 or more spaces must be lit per Appendix A, § 6.4, Lighting.
- (h) Pedestrian access. Parking lots with more than two double-loaded aisles will provide internal pedestrian access both through the lot and, if directly adjacent to right-of-way, from the adjacent right-of-way to the structure(s).
  - [1] Dimension. The pedestrian access pathway shall be at least six feet in width.
  - [2] Location. The pathway(s) shall be centrally located.
  - [3] Buffer. The pathway shall be buffered from drive aisles with landscaping or designated parking stalls and delineated with paint where it crosses drive aisles.
- (2) Vehicular parking location. If located in a district with lot type standards, refer to those standards for parking lot location. In addition, the following apply:
  - (a) Access. All spaces, unless otherwise noted, shall front an drive aisle, driveway, or right-of-way providing direct access the parking space.
  - (b) Parking in yards. Motorcycles and vehicles must be parked on driveways, permitted parking areas, or within a structure. **[Amended 6-6-2022 by Ord. No. 2049]**
  - (c) Recreational vehicles. Trailers, motor homes, recreational vehicles, boats, or other similar vehicles may be parked as follows:
    - [1] Recreational vehicles may be stored on a driveway in the front or corner yard between May 1 and October 15 and in the side and rear yards without restrictions. **[Amended 6-6-2022 by Ord. No. 2049]**
    - [2] Recreational vehicles can be stored in the side or rear yards.
    - [3] Recreational vehicles must be kept in good repair and carry a current license and registration.
    - [4] A maximum of two recreational vehicles can be stored out of doors on a lot at a time; there is no limit as it relates to vehicles within fully enclosed structures.

**§ 50-7.3. Required bicycle parking.**

A. Required Bicycle Parking Table.

(1) Table 7.3-1 outlines the required spaces for bicycle parking.

<b>Table 7.3-1 Required Bicycle Parking Table</b>	
Use	Required Spaces
<b>Residential/Lodging</b>	
Bed-and-breakfast/hotel/motel	1 per 7 employees
Dormitory	1 per 5 beds or per City-approved campus master plan
Nursing home/assisted living/rehabilitation center/adult foster care	1 per 7 employees
Residential	1 per 5 dwelling units
<b>Civic/Institutional Uses</b>	

**Table 7.3-1  
Required Bicycle Parking Table**

Use	Required Spaces
Assembly/theater	1 per 50 persons permitted at maximum occupancy
Assembly, religious	1 per 50 seats in worship area or 100 square feet without seats
College and university	Based on similar use or per City-approved campus master plan
Hospital	1 per 15 employees or per City-approved campus master plan
Library and museum	1 per 7 employees
Parks and open space	1 per 5,000 square feet of land area or per City parks and recreation plan
School	2 per classroom
<b>Commercial and Industrial</b>	
Agriculture	1 per 5 employees or gardeners
Eating and drinking establishments and entertainment sports (participant)	1 per 15 persons permitted at maximum occupancy
Office/employment uses/other	1 per 7 employees
Parking, stand-alone surface lot or garage/ramp	1 per 15 parking spaces
Retail/services	1 per 7 employees

(2) Total required bicycle parking spaces should be determined using the following parameters in addition to Table 7.3-1.

- (a) Calculation. At least one space is required. Beyond the first space, in determining the number of spaces required, any fraction of spaces required under 1/2 shall be disregarded; a fraction greater than 1/2 shall be rounded up to count as one space.
- (b) Public bicycle parking spaces. Parking facilities within public spaces, such as street rights-of-way, can count toward the requirement for nonresidential uses. All facilities located within a public right-of-way require review and approval of an encroachment agreement with the City.

B. Bicycle parking design and location. Bicycle parking facilities shall be provided using the following standards:

- (1) Design. Bicycle parking shall be designed as follows:
  - (a) Space size. Each bicycle parking space must be at least six feet long and two feet wide with a five-foot access aisle.
  - (b) Bicycle racks. Bicycle racks must be designed as follows:
    - [1] Be a fixed-in-place stand that is securely anchored to the ground and/or wall.
    - [2] Provide at least two points of contact to allow locking of frame and at least one wheel.
    - [3] Be constructed of materials that resist cutting, rusting, bending, or deformation.

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(c) Lockers. Lockers must be designed as follows.

[1] Be a fixed-in-place stand that is securely anchored to the ground and/or wall.

[2] Be secured by means of a lockable door or configured internally to allow locking of the frame and at least one wheel.

(2) Location. Bicycle parking shall be located as follows.

(a) Visible location. If not visible from the street or public entrance, a directional sign must be posted indicating location. Adherence to the Manual On Uniform Traffic Control Devices for signage is recommended.

(b) Structured parking. If more than 50% of a site's vehicular parking is in a covered area or structure, the required spaces shall also be located in the covered area or structure or otherwise protected from the weather.

**§ 50-7.4. Off-street loading requirements.**

A. Off-street loading. Construction of new buildings that are expected to have deliveries by vehicles rated as heavy-duty must provide off-street loading facilities as follows.

(1) Design. Each loading space shall be a minimum of 10 feet in width, 25 feet in length, and 14 feet in height.

(2) Location. Loading areas shall be located as follows.

(a) All off-street loading areas. Regardless of truck type, loading areas shall not be located in the front build-to zone and may not occupy any part of a required front or corner yard.

(b) Loading areas shall not be located closer than 50 feet from a residentially zoned lot unless it is wholly enclosed within the building or by walls.

(c) Loading areas must be separate from pedestrian facilities and pathways.

**§ 50-7.5. Driveway access design.**

A. Driveways. Driveways will be designed as follows:

(1) Driveway width. Driveway width is measured at the front property line and shall adhere to the following:

(a) Single-lane driveways. Single-lane driveways shall be between eight feet and 12 feet.

(b) Double-lane driveway. Double-lane driveways shall be between 20 feet and 24 feet, unless the driveway serves the off-street loading area where a larger driveway may be required based on site plan review.

(2) Double-track driveways. Double-track, wheel strip, or ribbon driveways are permitted as follows:

(a) The first two feet of the entire driveway width, measured from the property line, must paved or covered with a permitted material.

(b) The wheel strip shall be at least 18 inches in width.

(c) The area between the wheel strips must be landscaped with living ground cover.

(3) Materials. Driveways may be designed with impervious or semipervious materials, such as concrete,



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asphalt, macadam, brick, and stone.

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- (a) Gravel and crushed stone are permitted for residential driveways accessing parking areas up to 10 spaces. Additional application of these types of material may be permitted with approval of the City Planner.
- (4) Maximum coverage of front yard. Driveways cannot account for more than 30% of the front yard of a lot.



**Appendix**

**Appendix A**

**ZONING ORDINANCE**



§ 50-7.5

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 7-18-2005 by Ord. No. 1787<sup>185</sup>.  
Amendments noted where applicable.]**

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#### GENERAL REFERENCES

Planning Commission — See Ch. 2, Art. IV.

Kalamazoo Historic Preservation Commission — See Ch. 2, Art. V

Buildings and building regulations — See Ch. 9

Cemeteries — See Ch. 10

Filling stations — See Ch. 14

Fire prevention and protection — See Ch. 15

Historic districts — See Ch. 16

Housing Code — See Ch. 17

Land division — See Ch. 20A

Noise — See Ch. 21

Wastewater discharge regulations and enforcement procedures — See Ch. 28

Stormwater system — See Ch. 29

Soil erosion and sedimentation control — See Ch. 30

Streets and other public grounds — See Ch. 33

Swimming pools — See Ch. 34

Water — See Ch. 38

Trees — See Ch. 42

Telecommunications — See Ch. 45

Sexually oriented businesses — See Ch. 46

Land subdivision standards — See Appendix B

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185. Editor's Note: This ordinance also repealed former Appendix A – Zoning Ordinance, adopted 4-12-1954 by Ord. No. 439, as amended. Ordinance No. 1787 became effective 10-18-2005.



**STATUTORY REFERENCES**

**Michigan Zoning Enabling Act — See MCLA § 125.3101 et seq.**

**Public Health Code – See MCLA § 333.1101 et seq.**

**Medical Marihuana Act – See MCLA § 333.26421 et seq.**

**Medical Marihuana Facilities Licensing Act – See MCLA § 333.27101 et seq.**

**Marijuana Tracking Act – See MCLA § 333.27901 et seq.**

**Assaultive crimes and bail – See MCLA § 770.9a**





CHAPTER 1  
**General Provisions**

**§ 1.1. Title.**

These regulations shall be officially known as the "City of Kalamazoo Zoning Ordinance," and may be referred to as "the Ordinance" or "this Ordinance."

**§ 1.2. Authority.**

This Ordinance is enacted pursuant to the powers granted by laws of the state of Michigan, including the statutory authority granted in the Michigan City and Village Zoning Act, Public Act 207 of 1921, as amended (Michigan Compiled Law (MCL) § 125.581 et seq., as amended) and other relevant laws of the state.

**§ 1.3. Effective Date.**

This Ordinance was adopted by the City Commission of the City of Kalamazoo on July 18, 2005. This Ordinance became effective on October 18, 2005, 90 days after adoption by City Commission.

**§ 1.4. Applicability and Jurisdiction.**

- A. General. The provisions of this Ordinance shall apply to all development and the use of all land and structures on all lands and waters within the City of Kalamazoo, including land owned by county, state or federal agencies to the extent permitted by law.
- B. Application to City. Use of all structures and land owned by the City or by City agencies or departments shall be permitted uses in all zoning districts. Such uses shall comply with density, intensity and dimensional standards of Chapter 5 unless specifically waived or modified by the Zoning Board of Appeals or by resolution of the City Commission.
- C. No Development until Compliance with this Ordinance. No structure, land or water, shall be used and no structure or part of a structure shall be located, erected, moved, reconstructed, extended, converted or structurally altered except for normal repairs of existing structures, without full compliance with the provisions of this Ordinance and all other applicable city, state and federal regulations.

**§ 1.5. Purpose and Intent.**

- A. General. This Ordinance is adopted to guide and regulate the appropriate use or development of all lands and structures in a manner that will promote the public health, safety and general welfare.
- B. Specific. These regulations are specifically intended to:
  - 1. Classify all land in such manner as to reflect its suitability for particular uses.
  - 2. Regulate the location, construction, reconstruction, alteration, and use of buildings, structures, and land.
  - 3. Ensure adequate light, air, privacy, and convenience of access to property.
  - 4. Conserve property values.
  - 5. Protect all areas of the City from harmful encroachment by incompatible uses.
  - 6. Prevent the overcrowding of land with buildings.
  - 7. Avoid undue congestion of population.
  - 8. Fix reasonable standards to which buildings, structures and uses shall conform.

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9. Lessen congestion in the public streets by providing for off-street parking of motor vehicles and for off-street loading and unloading of commercial vehicles. § 1.6
10. Facilitate the adequate provision of transportation, water, sewage disposal, education, recreation, and other public facilities.
11. Provide for the elimination of nonconforming buildings and structures and for the elimination of nonconforming uses of land.
12. Promote a desirable visual environment through creative development techniques and good civic design and arrangement.
13. Protect natural resources and environmentally sensitive areas.
14. Define the powers and duties of the administrative officers and review bodies.
15. Provide penalties for violations of the provisions of this Ordinance or any subsequent amendment.

**§ 1.6. Interpretation.**

- A. Authority for Interpretation. The City Planner is responsible for interpreting the text of this Ordinance in accordance with the standards set forth in this section and applicable Ordinance standards and requirements, and applicable state law. Interpretations made by the City Planner may be appealed to the Zoning Board of Appeals.
- B. Meaning and Intent. All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to this Ordinance's stated purpose and intent, and applicable state law.
- C. Text Controls. In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, or figure, the text shall control.
- D. Statutory References. All references to state law in this Ordinance refer to the Michigan Compiled Law (MCL), as amended.
- E. Computation of Time. Periods of time defined by a number of days shall mean a number of consecutive calendar days. Any deadline that falls on a weekend or national holiday shall be extended to the next business day.
- F. Delegation of Authority. Whenever a provision appears requiring the head of a department, City Planner, or another officer or employee of the City to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.
- G. Technical and Nontechnical Words. Words and phrases not otherwise defined in this Ordinance shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this Ordinance that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- H. Mandatory and Discretionary Terms. The words "shall" and "must" are always mandatory, and the words "may" or "should" are always permissive.
- I. Conjunctions. Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows: (1) "And" indicates that all connected items, conditions, provisions, or events shall apply; (2) "Or" indicates that one or more of the connected items, conditions, provisions, or events shall apply.
- J. Tense and Usage. Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

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K. Gender. The masculine shall include the feminine.

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**§ 1.7. Conflicting Provisions.**

- A. Conflict with State or Federal Regulations. If the provisions of this Ordinance are inconsistent with those of the state or federal government, the more restrictive or specific provision shall control, to the extent permitted by law.
- B. Conflict with Other City Regulations. If the provisions of this Ordinance are inconsistent with one another or if they conflict with provisions found in other adopted City ordinances, development plans or historic regulations of the City, the more restrictive provision shall control.
- C. Conflict with Private Agreements. It is not the intent of this Ordinance to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. If the provisions of this Ordinance impose a greater restriction than imposed by a valid private agreement, the provisions of this Ordinance will control. If the provisions of a valid private agreement impose a greater restriction than this Ordinance, the provisions of such private agreement shall control. The City shall not be responsible for monitoring or enforcing private agreements, to the extent allowed by law.

**§ 1.8. Zone District Map.**

- A. Zone District Map. The Zone District Map designates the location and boundaries of the various zone districts established in this Ordinance within the City and is incorporated into this Ordinance by reference. The Zone District Map shall be kept on file in the office of the City Planner and is available for public inspection during normal business hours.
- B. Incorporated by Reference. The Zone District Map and all the notations thereon are hereby incorporated by reference and made part of this Ordinance.
- C. Zone District Boundaries. Unless otherwise specified, zone district boundaries are lot lines or the center line of streets, alleys, railroad rights-of-way, or such lines extended. Where a zone district boundary divides a land parcel under a single ownership into two or more zone districts, then the entire parcel shall be zoned to the district that consists of the most land area on the entire parcel. Boundaries indicated as parallel to, or extensions of, features indicated above shall be so construed. Distances not specifically indicated on the Official Zone District Map shall be determined by the scale of the map, if not indicated in the text of this Ordinance. Where physical or natural features existing on the ground are at variance with those shown on the Zone District Map, or in other circumstances are not covered above, the City Planner shall interpret the zone district boundaries. This paragraph shall not apply to any parcel that was purposefully rezoned in a manner where a zone district boundary divides a land parcel for the purpose of providing a buffer between land uses. **[Amended 3-19-2007 by Ord. No. 1822]**
- D. Boundary Disputes. The City Planner shall have the authority to interpret the Zone District Map and determine where the boundaries of the different zone districts fall, if in dispute. The interpretation of the district boundaries by the City Planner may be appealed to the Zoning Board of Appeals pursuant to § 8.3F: Appeals of Administrative Decisions.
- E. Changes to Zone District Map. Changes made in zone district boundaries or other matters portrayed on the Zone District Map shall be made in accordance with the provisions of this Ordinance (See § 8.3B: Amendments to Text of Ordinance or Zone District Map). Changes shall be entered on the Zone District Map promptly after the amendment has been approved by the City Commission with an entry on the Zone District Map. No amendment to this Ordinance that involves matters portrayed on the Zone District Map shall become effective until after such change entries are made on the Zone District Map by the City Planner.

**§ 1.9. Transitional Provisions.**

- § 1.9
- § 1.9
- A. Violations Continue. Any violation occurring under the previous Zoning Ordinance, which was repealed on October 18, 2005, will continue to be a violation under this Ordinance and be subject to penalties and enforcement pursuant to Chapter 10: Violations, Penalties and Enforcement, unless the use, development, construction, or other activity complies with the provisions of this Ordinance.
- B. Nonconformities Under Prior Ordinance. Any nonconformity under the previous Zoning Ordinance, which was repealed on October 18, 2005, will also be a legal nonconformity under this Ordinance, as long as the situation that resulted in the nonconforming status under the previous Ordinance continues to exist. If a nonconformity under the previous Ordinance becomes conforming because of the adoption of this Ordinance, then the situation will no longer be a nonconformity.
- C. Approved Projects.
1. Validity. Except for Planned Unit Developments approved prior to October 18, 2005 (See § 1.9D: Planned Unit Developments Approved Prior to October 18, 2005), permits and approvals that are valid on October 18, 2005 shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed.
  2. Changes. No provision of this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a building permit has been issued prior to October 18, 2005.
  3. Extensions. The decision-making body that granted original approval may renew or extend the time of a previous approval if the required findings or standards for approval remain valid. Any extension granted shall not exceed the time specified for the extension of the specific permit approval in Chapter 8: Review and Approval Procedures.
  4. Reapplication. Any reapplication for an expired project approval shall meet the standards in effect at the time of re-application.
- D. Planned Unit Developments (PUDs) Approved Prior to October 18, 2005.
1. Final approval required. Any Planned Unit Development (PUD) approved prior to October 18, 2005, shall remain valid until its expiration date if it has received final approval for at least one phase of the PUD prior to October 18, 2005. PUDs that receive final approval for at least one phase of the PUD prior to October 18, 2005 may be carried out in accordance with the development standards in effect prior to such date.
  2. Final approval not granted. If a PUD approved prior to October 18, 2005 fails to receive final approval for at least one phase of the PUD within 12 months after October 18, 2005, the PUD Plan, and PUD Agreement if applicable, shall lapse and become invalid. Prior to proceeding with any development within such PUD Overlay zone district, the owner or applicant shall be required to obtain approval of a new PUD Plan through the same procedure required for approval of the original PUD Plan, and such new PUD Plan shall be required to comply with all applicable provisions of this Ordinance.
- E. Applications in Progress.
1. Completed applications. Complete applications for permits and other approvals, submitted before October 18, 2005, and pending approval at the time of adoption of this Ordinance on October 18, 2005, may, at the applicant's option, be reviewed wholly under the terms of the previous Ordinance. If approved, these projects may be carried out in accordance with the development standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application.
  2. No applications submitted. Projects for which no application has been submitted and accepted as complete prior to October 18, 2005 shall be subject to all requirements and standards of this Ordinance.

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F. Severability. If any section, subsection, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by a Court of competent jurisdiction, for any reason, the remaining portions of this Ordinance shall not be affected. It is expressly declared that this Ordinance and each section, subsection, sentence, and phrase would have been adopted regardless of the fact that one or more other portions of the Ordinance would be declared invalid or unconstitutional. § 1.9



**CHAPTER 2  
Base Zoning Districts**

**§ 2.1. Districts Established. [Amended 6-6-2022 by Ord. No. 2049]**

The following base zoning districts are established in this Ordinance:

<b>Table 2.1-1 Established Base Zoning Districts</b>	
<b>Residential (R) Districts</b>	
RS-4	Residential, Single-Dwelling
RS-5	Residential, Single-Dwelling
RS-7	Residential, Single-Dwelling
RD-8	Residential, Duplex
RD-19	Residential, Duplex
RM-15	Residential, Multi-Dwelling
RM-15C	Residential, Multi-Dwelling (Campus Area)
RM-24	Residential, Multi-Dwelling
RM-36	Residential, Multi-Dwelling
RMHP	Residential, Mobile Home Park
RMU	Residential, Mixed Use
<b>Commercial (C) Districts</b>	
CMU	Commercial, Mixed Use
CNO	Commercial, Neighborhood Office
CN-1	Commercial, (Local) Neighborhood
CO	Commercial, Office
CN-2	Commercial, Neighborhood (Shopping Center)
CCBD	Commercial Central Business
CBTR	Commercial, Business, Technology and Research
<b>Manufacturing (M) Districts</b>	
M-1	Manufacturing, Limited
M-2	Manufacturing, General
<b>Special Purpose Districts</b>	
P	Public
IC	Institutional Campus

**§ 2.2. R, Residential Districts.**

All residential zoning district names begin with the letter “R,” which is a short-hand reference to “residential.” The second letter of all “R” district map symbols (other than the RMHP district) provides an indication of the primary characteristic of the district —”S” for single-dwelling, “D” for duplex, and “M” for multi-dwelling. Residential

§ 2.2 districts that end with a number provide a short-hand reference to the maximum density allowed in the district (expressed in terms of the number of dwelling units allowed per acre of land area). The RM-15 district, for example, is a residential zoning district that is primarily intended for multi-unit building types, with a maximum allowed density of 15 units per acre. § 2.2

A. RS, Residential Single-Dwelling Districts.

1. Description and Purpose. The primary purpose of the RS districts is to accommodate the development of single dwelling units on individual lots. The districts are intended to create, maintain and promote primarily owner-occupied housing, although they do permit nonresidential uses that are compatible with residential neighborhoods.
2. Allowed Uses. See § 4.1: Use Table<sup>186</sup>, for a list of uses allowed in all R districts.
3. Density/Intensity/Dimensional Standards. See § 5.1: Residential District Standards, for the Density, Intensity and Dimensional standards that apply in all R districts except the RMHP district.
4. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in all the R districts.
5. Occupancy Limits in RS Districts. An owner-occupied, one-family dwelling unit in any RS district may be occupied by a family or a maximum of three unrelated adults. [Note: three unrelated adults are allowed because a family may be defined as any two unrelated adults, and a family may have one roomer (2+1=3).] The keeping of one roomer in an owner-occupied, one-family dwelling unit that is occupied by a family is permitted. A non-owner-occupied, one-family dwelling unit may only be occupied by a family, or a maximum of two unrelated adults.

B. RD, Duplex Districts.

1. Description and Purpose. The primary purpose of the RD districts is to accommodate the development of two-family dwellings (duplexes or attached houses) and single dwelling units on individual lots.
2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in all R districts.
3. Density/Intensity/Dimensional Standards. See § 5.1: Residential District Standards, for the Density, Intensity and Dimensional standards that apply in all R districts except the RMHP district.
4. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in all the R districts.
5. Occupancy Limits in RD Districts. An owner-occupied dwelling unit in any RD district may be occupied by a family, or a maximum of four unrelated adults. The keeping of one roomer in an owner-occupied dwelling unit that is occupied by a family is permitted. A non-owner-occupied dwelling unit may only be occupied by a family or a maximum of four unrelated adults

C. RM, Multi-Dwelling Districts.

1. Description and Purpose.
  - a) General. The primary purpose of the RM districts is to accommodate the development of multi-unit housing (i.e., more than one dwelling unit per lot). The districts are intended to create, maintain and promote a mix of housing opportunities for City residents.
  - b) RM-15C. The RM-15C district is intended to protect and enhance those areas developed or likely to develop with medium-density, multiple-family dwellings close to institutions of higher

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**186. Editor's Note: The Use Table is included as an attachment to this chapter.**  
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education. The district regulations are designed to promote a suitable environment for a variety of residential types and provide regulations to address increased off-street parking needs, ensure building designs that are compatible with a campus community and prevent overcrowding. The RM-15C district has higher parking requirements for multifamily dwellings, to reflect the generally higher occupancy of such units near institutions of higher education.

§ 2.2

2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in all R districts.
3. Density/Intensity/Dimensional Standards. See § 5.1: Residential District Standards, for the Density, Intensity and Dimensional standards that apply in all R districts except the RMHP district.
4. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in all the R districts.
5. Occupancy Limits in the RM-15C District. An owner-occupied dwelling unit in the RM-15C district may be occupied by a family or a maximum of six unrelated adults. The keeping of two roomers in an owner-occupied dwelling unit that is occupied by a family is permitted. A non-owner-occupied dwelling unit may only be occupied by a family or a maximum of six unrelated adults.

D. RMHP, Mobile Home Park District.

1. Description and Purpose. The RMHP, Mobile Home Park district is established for the purpose of providing a specific district for manufactured and mobile homes, manufactured (mobile) home parks and appropriate accessory and supporting uses. The district is intended to ensure and promote the health, safety, and welfare of residents by establishing minimum standards for the location, density, improvement, and design of mobile home parks and subdivisions.
2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in all R districts.
3. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in all the in RMHP district unless such standards are inconsistent with the standards in Subsection 4 below.
4. Mobile Home Park Development Standards. Mobile Home Park Development in the RMHP district is subject to the following standards, including all applicable requirements of the Mobile Home Commission Act, 1987 PA 96, MCLA § 125.2301; MSA 19.855(101), as amended, and the rules of the Michigan Mobile Home Commission set forth and provided under the Act, as amended, and the requirements of this section.
  - a) Minimum Site Area/District Size. Ten acres.
  - b) Minimum Lot (Mobile Home Space) Area. A mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This required site size standard may be reduced by 20%, provided that each individual mobile home site shall be at least 4,400 square feet in area. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be provided as on-site open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.
  - c) Required Separation Distances. The requirements of Rules 941 and 944 of the Michigan Mobile Home Commission Regulations, as amended must be met for all appropriate distance and setbacks.
  - d) Minimum Lot (Mobile Home Space) Width. Forty feet, measured at the minimum front setback.
  - e) Minimum Lot (Mobile Home Space) Depth. Eighty feet, measured at the midpoint of the lot's width.

- f) Maximum Building Height. Thirty-five feet.
- g) Parking. At least two off-street parking spaces shall be provided for each mobile home dwelling unit. Required parking spaces shall be located on or adjacent to each mobile home space. Also, visitor parking is required at one parking space per three home sites and shall be located within 500 feet of the home sites served.
- h) Sidewalks. Concrete sidewalks shall be provided along at least one side of all streets within mobile home parks to accommodate pedestrians in a safe and convenient manner. Sidewalks shall have a minimum width of four feet.
- i) Mobile Home Stands. Every mobile home space shall consist of a concrete pad with a minimum thickness of four inches and a minimum size that is at least as large as the mobile home that occupies the space.
- j) Utilities. All mobile home parks shall provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions of public ways. All fuel oil tanks shall be located underground and sited in a uniform manner on each mobile home space. All utilities provided shall comply with the requirements of Rules 929 thru 940a of the Michigan Mobile Home Commission Regulations.
- k) Screening. Mobile home parks shall be screened along all sides that are adjacent to streets and residential zoning districts by fences or walls. Mobile home park boundaries that are adjacent to streets must include fences or walls with trees and shrubs planted along the exterior of the fence or wall. Trees shall be spaced no more than 30 feet apart and shrubs shall be installed to ensure a solid hedge at least three feet in height within one year of planting.
- l) Skirting. Mobile home dwelling units shall be skirted and skirting must be maintained so as not to provide a harborage for rodents or create a fire hazard. All requirements of Rule 604 of the Michigan Mobile Home Commission Requirements pertaining to skirting must also be met.
- m) Storm Shelter. Mobile home parks shall have a shelter for the protection of persons within the park in case of storm or disaster. Such shelter shall be placed below grade level or within a structure that is able to withstand the effects of tornados and other storm elements. Storm shelters must be centrally located within the park and clearly identified as an emergency shelter for park residents. The shelter shall be engineered and architecturally designed in accordance with City of Kalamazoo Building Codes. The shelter shall contain a minimum area of at least five square feet per mobile home unit (to be computed based upon the maximum number of units planned for the park in its ultimate configuration) or two square feet per capita (a maximum number of persons per dwelling to equal 2.5 for the purposes of computation), whichever is greater.
- n) Site Plan Review and Other Approvals.
  - 1) Prior to development of mobile home parks, a Full site plan shall be approved pursuant to the procedures and standards of § 8.3H: Site Plan.
  - 2) Prior to developing a mobile home park and commencing work thereon, all requirements of this Ordinance shall be met and a building permit shall be issued pursuant to the requirements of the City's Building Code. In addition, no physical improvements shall be made and no building or structure shall be erected, altered, repaired, or added to unless a written permit has been previously secured and the plans for that improvement have been reviewed and approved by the Planning Commission.
- o) Mobile Home Subdivision Development Standards. If the area proposed for a mobile home park is determined to be a subdivision, the applicant shall comply with the procedural and substantive requirements of the City's Subdivision Ordinance.

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- p) Existing Mobile Home Parks and Subdivisions. Mobile home parks or subdivisions developed prior to January 5, 1970, shall not be governed by this Ordinance unless specifically stated in this Ordinance (a mobile home park or subdivision shall be considered to be developed prior to January 5, 1970 if it was approved by the State Health Commissioner prior to January 5, 1970); provided, however, that no existing mobile home park shall be permitted to expand or have placed a greater number of mobile homes within its existing boundaries unless these additional units conform to all of the standards and requirements of this Ordinance; and provided further that any existing mobile home park shall not be expanded beyond its present or existing developed boundaries unless the new area developed conforms to all the standards and requirements of this Ordinance.

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E. RMU, Residential Mixed Use.

1. Description and Purpose. The RMU, Residential Mixed Use district is intended to accommodate a variety of styles and densities of single-family, duplex, and multifamily residential dwelling units, live-work units, public and civic uses, and neighborhood scale commercial uses. This district is intended to be used in areas where the predominant character of development is residential, but separation of residential and nonresidential uses is not necessary, and the intention is for a broader mix of residential and nonresidential uses in the future. The RMU district will generally be used in conjunction with an overlay district specifying in more detail the intended scale, density, and style of permitted development.
2. Allowed Uses. See § 4.1: Use Table<sup>187</sup>, for a list of uses allowed in all R districts.
3. Density/Intensity/Dimensional Standards. See § 5.1: Residential District Standards, for the Density, Intensity and Dimensional standards that apply in all R districts except the RMHP district.
4. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in all the R districts.
5. Occupancy Limits in RMU Districts. An owner-occupied, one-family dwelling unit in any RMU district may be occupied by a family or a maximum of three unrelated adults. [Note: Three unrelated adults are allowed because a family may be defined as any two unrelated adults, and a family may have one roomer (2+1=3).] The keeping of one roomer in an owner-occupied, one-family dwelling unit that is occupied by a family is permitted. A non-owner-occupied, one-family dwelling unit may only be occupied by a family, or a maximum of two unrelated adults.

**§ 2.3. C, Commercial Districts.**

All commercial zoning district names begin with the letter "C," which is a short-hand reference to "commercial." Subsequent letters of the commercial district map symbols are abbreviations indicating the general character of the district or simply abbreviations of the full district name. Numbers, where used, are intended to identify the relative intensity of similar districts. Thus, the CN-1 district name is intended to denote a commercial zoning district, with a neighborhood-oriented or neighborhood-serving character that is less intensive than its CN-2 counterpart.

A. CMU, Commercial Mixed Use.

1. Description and Purpose. The CMU, Commercial Mixed Use district is intended to accommodate a variety of styles and densities of commercial land uses, as well as duplex and multifamily units and public and civic uses. This district is intended to be used in areas where the predominant character of development is nonresidential, but separation of residential and nonresidential uses is not necessary, and the intention is for a broader mix of residential and nonresidential uses in the future. The CMU district will generally be used in conjunction with an overlay district specifying in more detail the intended scale, density, and style of permitted development.

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**187. Editor's Note: The Use Table is included as an attachment to this chapter.**  
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2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in the CMU district.
3. Density/Intensity/Dimensional Standards. See § 5.2: Commercial and Manufacturing District Standards, for the Density, Intensity and Dimensional standards that apply in the CMU district.
4. Development Standards. All development in the CNO district that includes neighborhood commercial uses shall comply with those design standards in § 6.5A: Neighborhood Commercial, and all development in the CNO district shall comply with all other applicable requirements of Chapter 6: Development Standards.

B. CNO, Commercial Neighborhood Office District.

1. Description and Purpose. The CNO, Commercial Neighborhood Office district is primarily intended to accommodate low-intensity administrative and professional offices that are compatible with the character of residential neighborhoods. The district is also intended to be used as a transition district between higher intensity commercial areas and residential neighborhoods. The district allows administrative and professional office uses in structures that formerly housed residential dwelling units. Residential uses are also allowed in the district when located in a mixed-use structure (one containing office and residential uses).
2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in the CNO district.
3. Density/Intensity/Dimensional Standards. See § 5.2: Commercial and Manufacturing District Standards, for the Density, Intensity and Dimensional standards that apply in the CNO district.
4. Design and Development Standards. All development in the CNO district shall comply with those design standards in § 6.5A: Neighborhood Commercial, as well as with all other applicable requirements of Chapter 6: Development Standards.

C. CN-1, Local Neighborhood Commercial District.

1. Description. The CN-1, Local Neighborhood Commercial district is primarily intended to encourage the development of very small scale retail sales and personal service uses within or very near residential neighborhoods. The regulations and standards promote pedestrian-oriented development at an intensity level that is compatible with surrounding residential areas. Uses are restricted in size to promote a local orientation and to limit adverse impacts on nearby residential areas.
2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in the CN-1 district.
3. Density/Intensity/Dimensional Standards. See § 5.2: Commercial and Manufacturing District Standards, for the Density, Intensity and Dimensional standards that apply in CN-1 districts.
4. Design and Development Standards. All development in the CN-1 district shall comply with those design standards in § 6.5A: Neighborhood Commercial, as well as with all other applicable requirements of Chapter 6: Development Standards.

D. CO, Commercial Office District.

1. Description. The CO, Commercial Office district is generally intended to function as a medium- to high-intensity office district primarily along arterial streets. The district is intended to prevent strip commercial development by allowing office uses but not other commercial uses and to serve as a land use buffer between major streets and residential neighborhoods. It may also be an appropriate land use buffer between higher intensity commercial areas and residential neighborhoods.
2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in the CO district.
3. Density/Intensity/Dimensional Standards. See § 5.2: Commercial and Manufacturing District Standards,

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for the Density, Intensity and Dimensional standards that apply in CO districts.

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4. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in the CO district.

E. CN-2, Neighborhood Shopping Center District.

1. Description. The CN-2, Neighborhood Shopping Center district is primarily intended to encourage the development of small-scale retail sales and personal service uses at convenient locations that primarily serve nearby residential neighborhoods. The standards for the CN-2 district promote pedestrian-oriented development at an intensity level that is compatible with surrounding residential areas. Uses are restricted in size to promote a local orientation and to limit adverse impacts on nearby residential areas.
2. Allowed Uses. See § 4.1: Use Table<sup>188</sup>, for a list of uses allowed in the CN-2 district.
3. Density/Intensity/Dimensional Standards. See § 5.2: Commercial and Manufacturing District Standards, for the Density, Intensity and Dimensional standards that apply in CN-2 district.
4. Design and Development Standards. All development in the CN-2 district shall comply with those design standards in § 6.5A: Neighborhood Commercial, as well as with all other applicable standards of Chapter 6: Development Standards.

F. (Reserved)<sup>189</sup>

G. CCBD, Central Business District.

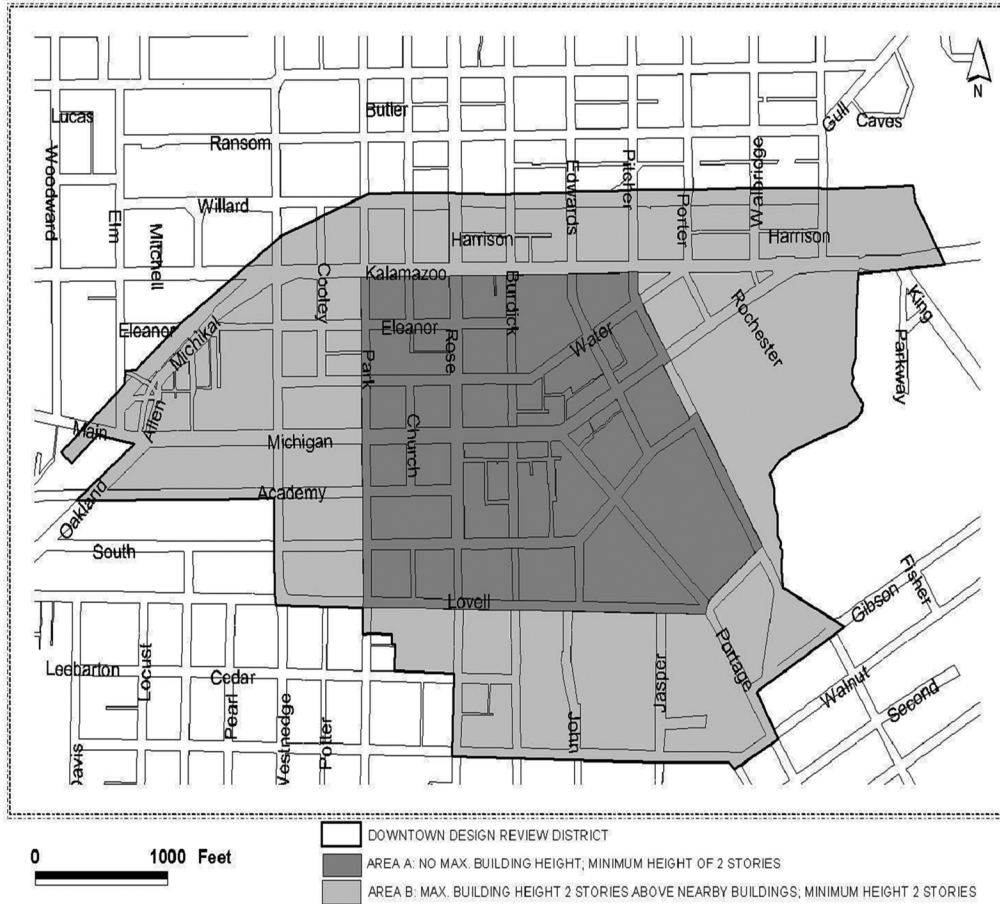
1. Description. The CCBD, Commercial Central Business District is designed to accommodate those retail, service and office uses which are characteristic of the "downtown" area of the City. The district regulations are designed to establish and preserve the central business district as the principal office and retail center of the City.
2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in the CCBD district.
3. Density/Intensity/Dimensional Standards. See § 5.2: Commercial and Manufacturing District Standards, for the Density, Intensity and Dimensional standards that apply in the CCBD district.
4. Height. Maximum building heights in the CCBD district shall be as shown in the Exhibit on the following page, which allows for taller buildings near the historic core of the City and restricts heights to lower levels at the edges of the district near surrounding zone districts.
  - a) Area A. Area A is the darker shaded central core area. Primary structures in Area A shall be a minimum of two stories in height, and shall not be subject to a maximum height limit.
  - b) Area B. Area B is the lighter grey shaded area outside the central core area bounded by a solid line (but not including any areas included in Area A). Primary structures in Area B shall be a minimum of two stories in height, and may not be more than two stories taller than the tallest primary structure on any lot located within 200 feet of any property boundary of the subject lot.

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**188. Editor's Note: The Use Table is included as an attachment to this chapter.**

**189. Editor's Note: Former Subsection F, CC, Community Commercial District, was repealed 6-6-2022 by Ord. No. 2049.**

**Maximum Building Height**



5. Design and Development Standards. All development in the CCBD district shall comply with those design standards in § 6.5C: CCBD Kalamazoo Downtown Design Guidelines, as well as with all other applicable provisions of Chapter 6: Development Standards.

H. CBTR, Business, Technology and Research District.

1. Description.

- a) The CBTR, Business, Technology and Research district is established for the purpose of:
  - 1) Supporting economic development that is an asset to the community, neighbors and owners;
  - 2) Promoting and maintaining desirable development activities in a setting that is in harmony with the surrounding area;
  - 3) Preserving natural features and historic resources;
  - 4) Maintaining and enhancing surface and ground water quality, and
  - 5) Promoting architecturally attractive buildings and structures.
- b) The CBTR district is established to provide a high-quality working environment for research and development institutions, offices, and certain specialized production and assembly establishments along with other special uses, all of a nonnuisance type. The nature, scale, and function of such uses will be limited and regulated to ensure that they pose no significant or unusual risk to the

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public health, safety, and welfare; generate a minimum of noise, heat, glare, odor, dust, vibration, or other nuisances; do not emit harmful radiation or pollution to the air, water, or ground; and create a minimum of traffic congestion, or any other safety hazards.

2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in the CBTR district.
3. Density/Intensity/Dimensional Standards. See § 5.2: Commercial and Manufacturing District Standards, for the Density, Intensity and Dimensional standards that apply in the CBTR district.
4. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in the CBTR district unless such standards are inconsistent with the standards in Subsection 5 below.
5. Additional Standards.
  - a) Outdoor Activities. All business, servicing, or processing must be conducted within completely enclosed buildings, except for the following:
    - 1) Off-street parking and off-street loading; and
    - 2) Drive-up service windows for banks and financial institutions.
  - b) Overall Development Plan. Where two or more development sites are to be developed together in accordance with an overall plan, or where one development site is to be subdivided into individual lots, evidence must be submitted, signed by the owners of all property involved or their legal representatives, showing that the remaining portions of the property will be developed in accordance with the intent and specific provisions of this district. This evidence must be submitted prior to site plan approval. Such evidence must include, at a minimum, the following information:
    - 1) An overall development plan showing the size and layout of proposed individual development sites and subdivided lots; existing and proposed public streets and private roadways; existing and proposed utility systems; historic resources to be preserved; wetlands to be preserved; proposed stormwater management plans for the development; and other proposed site features such as landscape buffers.
    - 2) Covenants, deed restrictions, or other legally binding agreements showing that individual development sites and subdivided lots will be improved and developed in accordance with the building and site improvement requirements of this district.
    - 3) An anticipated schedule for the development of the development site and the construction of required improvements.
  - c) Building and Sign Design. The developer must create architectural and design standards for buildings and signs prior to the division of land or the creation of a condominium association within the CBTR district. The developer must also establish review procedures and the categories of membership for an architectural review committee. Prior to the division of land or the creation of a condominium association within this district, the architectural and design standards, review procedures and the categories of membership of the architectural review committee must be submitted to the Planning Commission for review and approval. All buildings and signs within the development must be reviewed and approved by the architectural review committee prior to the issuance of building permits. In the alternative, the developer may regulate building and sign design by deed or plat restrictions, the text of which must be approved by the Planning Commission. In cases where no architectural review committee procedure has been approved or deed or plat restrictions text has been approved, all building and sign designs must be reviewed and approved by the Planning Commission.
  - d) Site Plan Review Required. Development within the CBTR district is subject to the procedures and

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standards of § 8.3H, Site Plan, and § 6.2, Landscaping.

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- e) Signs. Signs must comply with the standards of Chapter 7: Signs. **[Amended 3-19-2007 by Ord. No. 1822]**
- f) Parking Lots and Loading Areas. Off-street parking lots and loading areas shall not be located in required front yard setbacks, but may be located in required side and rear yard setbacks no closer than 10 feet to the property line. **[Added 3-19-2007 by Ord. No. 1822]**

#### § 2.4. M, Manufacturing Districts.

All manufacturing zoning district names begin with the letter "M," which is a short-hand reference to "manufacturing." Numbers that follow the letter "M" indicate the relative intensity of uses and/or development allowed within the districts, with "M-1" indicating a manufacturing district that is less intensive than the M-2 district.

##### A. M-1, Limited Manufacturing District.

1. Description. The M-1, Limited Manufacturing district is primarily intended to accommodate low-impact manufacturing uses and activities that are not significantly objectionable to surrounding properties, in terms of traffic, noise, odor, smoke and other potential nuisance factors.
2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in the M-1 district.
3. Density/Intensity/Dimensional Standards. See § 5.2: Commercial and Manufacturing District Standards, for the Density, Intensity and Dimensional standards that apply in the M-1 district.
4. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in the M-1 district.

##### B. M-2, General Manufacturing District.

1. Description. The M-2, General Manufacturing district is primarily intended to accommodate low-, moderate- and high-impact industrial uses and activities and to prevent encroachment by residential and other uses that would eventually lead to land use conflicts.
2. Allowed Uses. See § 4.1: Use Table, for a list of uses allowed in the M-2 district.
3. Density/Intensity/Dimensional Standards. See § 5.2: Commercial and Manufacturing District Standards, for the Density, Intensity and Dimensional standards that apply in the M-2 district.
4. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in the M-2 district.

#### § 2.5. Special Purpose Districts.

##### A. P, Public District.

1. Description. The P, Public district is intended to accommodate uses of a governmental or public service nature, including major public facilities and parks. It offers an alternative district classification for such uses, thereby increasing development predictability throughout the City, especially within residential neighborhoods. The district is generally intended to be applied to land owned or otherwise controlled by the federal government, the state, the county, the City and school districts. This designation serves a notice function to those owning or buying land in proximity to publicly owned land.
2. Use Regulations. See § 4.1: Use Table<sup>190</sup>, for a list of uses allowed in the P district.



3. Density/Intensity/Dimensional Standards.
    - a) The density, intensity and dimensional standards of the most restrictive abutting district apply to all areas of the P district site located within 150 feet of the abutting district. Stricter standards may be established at the time of site plan or special use approval.
    - b) For areas of the P district site located more than 150 feet from abutting districts, density, intensity and dimensional standards must be established as part of the site plan or special use approval process.
    - c) If no site plan or special use approval is required, no density or dimensional standards apply to that portion of a P district site located more than 150 feet from abutting districts.
  4. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in the P district.
- B. IC, Institutional Campus District.
1. Purpose. The purpose of the IC, Institutional Campus district, is to accommodate large institutional uses in campus-like settings, such as colleges, schools, hospitals and large religious assemblies. The IC district is intended to promote and enhance the development and expansion of educational, medical and other large institutional uses, while minimizing the adverse impacts that can result when such uses are located near residential neighborhoods.
  2. Development Review. All development within the IC district is subject to the review and approval procedures of § 8.3C: Planned Unit Development Overlay (PUD-O) District, even though an IC district rezoning is not a Planned Unit Development.
  3. Use Regulations. See § 4.1: Use Table, for a list of uses allowed in the IC district.
  4. Density/Intensity/Dimensional Standards. Density/intensity and dimensional standards must be established at the time of approval of an Institutional Master Plan.
  5. Development Standards. See Chapter 6: Development Standards, for Development Standards that apply in the IC district.
  6. Institutional Master Plans.
    - a) Purpose. Institutional Master Plan requirements are intended to provide a framework for development of large institutional uses in campus-like settings. Approval of an Institutional Master Plan is intended to permit flexibility in site development and in the design and arrangement of buildings that is not possible when development occurs on a lot-by-lot or building-by-building basis. In addition, it is intended that the master planning process and resulting master plan document protect the integrity of adjacent neighborhoods. The provisions for an institutional master plan are intended to create efficient, functional, and attractive areas that incorporate a high level of amenities and meet public objectives for protection and preservation of the natural and built environment. The provisions are intended to ensure compatible uses and structures within institutional master planned areas and between institutional areas and areas adjacent to them. The provisions are intended to prevent adverse impacts associated with the unplanned growth of large institutions; to ensure adequate provision for pedestrian and vehicular movement; to provide open spaces for light, air and recreation; and to provide for the efficient provision of utilities, services and facilities.
    - b) Master Planning Area. An Institutional Master Plan must be prepared and submitted by the

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institution and include all area within the IC district and an area extending out at least 300 feet from the boundary of the IC district, unless the City Planner establishes a different area requirement based on a review of the following:

- 1) Physical area occupied or controlled by the existing institution;
  - 2) Trends in property values;
  - 3) Redevelopment potential of surrounding areas;
  - 4) Proximity of other institutional uses;
  - 5) Condition of structures; and
  - 6) Level of area vacancy.
- c) Planning Requirements. An institutional master plan must, at a minimum, include the following information unless the City Planner determines that such information is not necessary to evaluate the proposed master plan and the institution's future impacts on surrounding neighborhoods.
- 1) The Institutional Master Plan must cover a ten-year period unless the City Commission approves a different time period at the time the Institutional Master Plan approval. An Institutional Master Plan will lapse and be of no further effect 10 years after the date of its approval by the City Commission unless the City Commission expressly establishes a different time period for expiration at the time of approval.
  - 2) The Institutional Master Plan must include a statement that defines the organizational mission and objectives of the institution and description of how all development contemplated or defined by the institutional master plan advances the goals and objectives of the institution. The statement should describe the population to be served by the institution, and any projected changes in the size or composition of that population. It should also specify any services to be provided to residents in adjacent neighborhoods and in other areas of the Kalamazoo region.
  - 3) The Institutional Master Plan must include a description of land, buildings, and other structures occupied by the institution as of the date of submission of the Institutional Master Plan.. At a minimum, the following information is required:
    - (a) Illustrative site plans showing the footprints of each building and structure, together with roads, sidewalks, parking, landscape features and other significant site improvements;
    - (b) Land and building uses;
    - (c) Gross floor area in square feet;
    - (d) Building height in stories and feet;
    - (e) Landscaping, signage and lighting plans; and
    - (f) A description of off-street parking and loading areas and facilities, including a statement of the approximate number of parking spaces in each area or facility.
  - 4) The Institutional Master Plan must include a summary and projection of the institution's current and future needs for the following facilities:
    - (a) Academic;

- (b) Service;
  - (c) Research;
  - (d) Office;
  - (e) Housing;
  - (f) Patient care;
  - (g) Public assembly;
  - (h) Parking; and
  - (i) Other facilities related to the institutional use.
- 5) The Institutional Master Plan must include a description of the land area and "development envelope" within which future development will occur. The development envelope must be described in narrative and through the use of drawings or models. The intent of this provision is to provide the institution with certainty regarding the future development potential of the site subject to the Institutional Master Plan while protecting the integrity of adjacent neighborhoods. The Institutional Master Plan must include the following estimates in describing the development envelope:
- (a) Floor area ratio;
  - (b) Average daily and peak-hour traffic;
  - (c) Height;
  - (d) Setbacks;
  - (e) Total site area of open space; and
  - (f) Total number of parking spaces to be provided.
- 6) The Institutional Master Plan must include transportation and parking management plans that identify any traffic mitigation measures to be employed.
- 7) Institutional Master Plan must include pedestrian circulation guidelines and objectives, including a description of the circulation system to be provided through the campus and plans for ensuring the accessibility of pedestrian areas and open spaces.
- 8) The Institutional Master Plan must include design guidelines and objectives for new and renovated buildings and structures to assure their compatibility with supporting neighborhoods and districts and to minimize potential adverse impacts on such neighborhoods. Urban design guidelines must include listings of appropriate materials, height, bulk, massing and colors that will be used to guide the course of proposed and future development.
- 9) The Institutional Master Plan must identify standards and programs that will be put in place to ensure that the quality of the surrounding neighborhoods is maintained or enhanced. The Institutional Master Plan must report on the results of the institution's citizen participation effort in preparing the Institutional Master Plan. At a minimum, the citizen participation report must include the following information:
- (a) Details of techniques the applicant used to involve the public.

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- (b) Dates, locations and attendance of all meetings where citizens were invited to discuss the applicant's proposal.
  - (c) A summary of concerns, issues and problems expressed during the process.
  - (d) Concerns, issues and problems the applicant is unwilling or unable to address and why.
- 10) The Institutional Master Plan must include a description of other nearby institutions and report on efforts to coordinate planning with those other institutions.

**CHAPTER 3  
Overlay Zoning Districts**

**§ 3.1. The Districts.**

- A. The overlay districts of this chapter are intended to apply in combination with the underlying base district to impose regulations and standards that address special geographic areas or land use issues.
- B. In the event of conflict between overlay district regulations and the regulations of the underlying (base) district, the overlay district regulations govern. In all other cases, both the overlay district and base district regulations apply.
- C. Overlay districts are established in accordance with the Zoning Map Amendment procedures of § 8.3B, Amendments to Text of Ordinance or District Map.
- D. The following overlay districts are included in this Ordinance: **[Amended 10-17-2022 by Ord. No. 2056]**

<b>Table 3.1-1 Overlay Districts</b>	
NC-O	Neighborhood Conservation Overlay
PUD-O	Planned Unit Development Overlay
THD-O	Traditional Housing Density
HP-O	Historic Preservation Overlay
RF-O	Riverfront Overlay

**§ 3.2. NC-O, Neighborhood Conservation Overlay.**

- A. Purpose. The NC-O, Neighborhood Conservation Overlay district is intended to:
  - 1. Encourage development that conforms to the type, scale, orientation and physical design of existing development in the neighborhood;
  - 2. Foster development and redevelopment that is compatible with the type, scale, orientation and physical design of original buildings in the neighborhood through the use of development standards, design standards and guidelines; and
  - 3. Conserve cultural, historic and property values within identified neighborhood areas.
- B. Selection Standards. An NC-O district must be a geographically defined area that has a significant concentration, linkage or continuity of sites that are united by physical development, architecture or history. To be eligible for an NC-O district designation, the area must comply with the following standards.
  - 1. The general pattern of development, including streets, lots and buildings, must have been established at least 25 years prior to creation of the district.
  - 2. The area must possess built environmental characteristics that create an identifiable setting, character and association.
  - 3. The designated area must be a contiguous area of at least five acres in area. Areas of less than five acres may be designated in accordance with the procedures of this section if they abut an existing NC-O district.
- C. Uses. The NC-O may not allow additional uses other than allowed by the underlying zoning district(s). The NC-O may exclude or limit uses allowed by the underlying zoning district(s).

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- D. Development/Design Standards. In establishing an NC-O district, the Historic District Commission, the Planning Commission, and staff are authorized to propose, and the City Commission is authorized to adopt district-specific development and design standards to guide development and redevelopment within NC-O districts. When development and design standards are approved, each application for alteration within the designated NC-O must comply with those standards. When there are conflicts between the standards of the underlying base district and adopted NC-O district design/development standards, the NC-O design/development standards govern. § 3.2
- E. Establishment of District. NC-O Districts are established in accordance with the Zoning Map Amendment procedures of § 8.3.B: Amendments to Text of Ordinance or District Map, except as modified by the following provisions:
1. An application to establish an NC-O district may be initiated by City staff, the Historic District Commission, the Planning Commission, or the City Commission.
  2. Applications may also be initiated by petition when signed either by the owners of 51% of the area within the proposed NC-O district or by at least 51% of the property owners within the proposed district.
  3. The Historic District Commission and the Planning Commission must submit written recommendations to the City Commission regarding the creation of NC-O districts.
  4. The Historic District Commission is responsible for reviewing NC-O zoning applications for compliance with the Selection Criteria of § 3.2B: Selection Standards, and for recommending development/design standards and guidelines for the district.
  5. The Planning Commission is responsible for reviewing the application for its planning and zoning implications.
  6. The City Commission is responsible for making a final decision to approve or deny NC-O zoning.
- F. Procedures.
1. Unless otherwise expressly stated, the Zoning Map amendment procedures of § 8.3B: Amendments to Text of Ordinance or District Map apply.
  2. Public hearings on NC-O district designation applications must be held by the Historic District Commission, Planning Commission and City Commission in accordance with the hearing procedures of § 8.2: Public Hearing Procedures.
  3. Following its hearing, the Historic District Commission must adopt, by resolution, a recommendation that NC-O district designation be approved, approved with conditions, or denied. The Historic District Commission's recommendation must be in the form of a resolution and be submitted to the Planning Commission and City Commission. The resolution must be accompanied by a report containing the following information:
    - a) An explanation of whether and how the area complies with § 3.2B: Selection Standards,
    - b) Proposed uses, Development/Design Standards, including a description of the general pattern of development, including streets, lots and buildings in the area; district-specific development and design standards pertaining to elements such as building scale, massing, and height; building elements and projections (e.g., front porches, bay windows, detached garages), setbacks, and open space to guide redevelopment and development within the district;
    - c) A map showing the recommended boundaries of the NC-O district; and
    - d) A record of the proceedings before the Historic District Commission.

- § 3.2 4. Following the public hearing and recommendation of the Historic District Commission, the Planning Commission must hold a public hearing and adopt, by resolution, a recommendation that the NC-O district designation be approved, approved with modifications, or denied. The Planning Commission's recommendation must be in the form of a resolution and be submitted to the City Commission. The resolution must be accompanied by a report containing the following information:
- a) An explanation of the planning and zoning implications related to the designation of the proposed area and district-specific development and design standards recommended by the Historic District Commission;
  - b) Recommendations for changes to the district-specific development and design standards to guide redevelopment and development within the district recommended by the Historic District Commission;
  - c) A map showing the recommended boundaries of the NC-O district; and
  - d) A record of the proceedings before the Planning Commission.
5. Following the public hearings by the Historic District Commission and the Planning Commission, the City Commission must hold a public hearing and act to approve, approve with modifications, or deny the application for NC-O district designation.
- G. NC-O Districts Established. The following NC-O districts are established:

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<b>Table 3.1-2 NC-O Districts Established</b>	
<b>Conservation Overlay District Name</b>	<b>Boundaries</b>

**§ 3.3. Standards for Traditional Housing Density Overlay (THD-O).**

- A. Description. The THD-O Traditional Housing Density Overlay district is intended to stabilize and preserve the character of the neighborhoods without downzoning and without creating widespread nonconformities.
- B. Use Regulations. The uses allowed in the underlying district are allowed in the THD-O district.
- C. Density/Intensity/Dimensional Standards. The Density/Intensity and Development standards of the underlying zoning district apply to development within the THD-O district.
- D. Existing Uses.
  - 1. All legally conforming established residential uses in existence on October 18, 2005, will be considered conforming under this Ordinance. Any residential building (legally conforming or legally nonconforming) may be rebuilt with the same number of dwelling units, but it may not be rebuilt to contain a greater number of dwelling units than (a) the number of dwelling units that existed at the time of its demolition, or (b) the number of dwelling units allowed by the density and dimensional standards of the underlying zoning district, whichever is greater.
  - 2. If a structure in the THD-O district contains more residential dwelling unit than are permitted by the density/intensity standards of Secs. 5.1 or 5.2 (as applicable), and one or more of such dwelling units are later removed from the structure through remodeling, renovation, or any other means, then such dwelling units may not subsequently be re-constructed or otherwise made available for occupancy as a separate dwelling unit unless the residential structure would still comply with the standards of § 5.1 or 5.2 (as applicable) after such re-construction, remodeling, or occupancy. Once a dwelling unit that would not be permitted under the density/intensity standards of § 5.1 or 5.2 is removed from a structure by any means, it may not be re-constructed or made available for occupancy through any means.

- § 3.3 3. Any conforming building containing a conforming use that has been destroyed or damaged by fire, explosion, or Act of God may be rebuilt to its pre-damage state, notwithstanding the requirements of § 9.2: Nonconforming Uses. § 3.4

**§ 3.4. PUD-O, Planned Unit Development Overlay District.**

A Planned Unit Development Overlay district may be approved for residential, commercial, public, or industrial development, or for a mix of such uses, pursuant to the following standards and requirements.

- A. Purpose. The PUD-O, Planned Unit Development Overlay District regulations are intended to:
1. Promote consistency with the Comprehensive Plan;
  2. Promote development that can be conveniently, efficiently and economically served by existing and planned utilities and services;
  3. Promote design flexibility that results in greater public benefits than could be achieved using conventional district regulations;
  4. Encourage the preservation of environmental and historic resources;
  5. Promote a mix of attractive and functional residential and nonresidential developments that are compatible with surrounding development.
- B. Development Review and Approval. A PUD-O district may be approved only when the City Commission determines that a proposed Planned Unit Development complies with all the relevant and appropriate standards of § 3.4H: Standards, the procedures of § 8.3C: Planned Unit Development Overlay (PUD-O) District, and would result in a greater benefit to the City than would development under conventional district regulations.
- C. Developer's Statement. Each PUD-O application must include a comparison of the proposed development with the standards of underlying district and the otherwise applicable standards of this Ordinance. Applications must also include a statement by the applicant describing how the proposed development provides greater benefits to the City than would a development carried out in accordance with otherwise applicable district and development standards.
- D. Effect of other District Standards. Except as expressly authorized by the regulations of this section and approved as part of a PUD Plan (in accordance with the procedures of § 8.3C: Planned Unit Development Overlay (PUD-O) District), all of the standards of this Ordinance apply to development within a PUD-O district.
- E. Minimum Land Area. A PUD-O district classification containing only residential and related land uses may only be applied to lands that comprise a minimum of five contiguous acres in area, or a contiguous city block, whichever is less. A PUD O district classification containing commercial uses or a mix of commercial and residential uses may be applied without a minimum area requirement.
- F. Location. A PUD-O zoning classification may be established on any land located in the City that complies with all of the applicable standards of this section.
- G. Unified Ownership or Control. The title to all land that is part of a PUD-O district classification containing only residential and related land uses must be owned or controlled by one person at the time of application and approval. A person will be considered to control all lands in the PUD-O district either through ownership or by written consent of all owners of land within the proposed PUD-O district boundary that is subject to the conditions and standards of the adopting ordinance, the PUD Plan and PUD-O District Agreement. A PUD-O district classification containing commercial uses or a mix of commercial and residential uses need not be owned or controlled by one person at the time of application and approval.



§ 3.4 H. Standards. All development in a PUD-O district shall comply with (1) all provisions of this Code applicable to the underlying zone district unless such provisions are expressly varied by the terms of the PUD Plan. In addition, before approving a PUD-O district classification, the City Commission must find that the PUD Plan and district classification complies with those standards identified in § 8.3C.7: Planned Unit Development Overlay (PUD-O) Zone District. The City may require additional building design standards, landscaping standards and site development standards to ensure that a PUD-O classification containing commercial uses or a mix of commercial and residential uses are compatible with and enhance the appearance of surrounding areas. § 3.6

**§ 3.5. HP-O, Historic Preservation Overlay.<sup>191</sup>**

The HP-O, Historic Preservation Overlay is intended to be applied to areas that are subject to the City's historic preservation ordinance. The regulations that apply within the HP-O are those contained within Chapter 16, Historic Districts, of the Kalamazoo Code of Ordinances. The local historic districts within the City of Kalamazoo are listed below:

1. Haymarket Historic District.
2. Rose Place Historic District.
3. South Burdick Historic District.
4. South Street/Vine Area Historic District.
5. Stuart Area Historic District.

**§ 3.6. RF-O, Riverfront Overlay. [Amended 7-31-2006 by Ord. No. 1809]**

- A. Purpose. The RF-O district is intended to implement The Kalamazoo Riverfront Redevelopment Plan (Riverfront Plan) adopted by the City on April 14, 2003. The RF-O district has specific purposes including:
1. To protect and preserve the Kalamazoo River and its frontage for public use, providing benefits to the entire City.
  2. To encourage the redevelopment of areas adjacent to the riverfront in an urbanist style and to strengthen connections to and from the remainder of the City.
  3. To encourage the transformation over time of certain industrial areas towards residential and mixed use development.
  4. To encourage the creation of stable residential and mixed use neighborhoods including a wide variety of residential housing types on both the east and west sides of the Kalamazoo River.
  5. To improve the quality of development throughout the area, and particularly along higher volume streets providing public views of the RF-O district.
  6. To create a balanced and integrated transportation system that relies less on automobiles and more on bus transit, biking, and walking, and to create a mix of land uses and intensities that support that balanced transportation system.
  7. To encourage patterns of development that support a mix of living, working, and recreational activities close to one another.
  8. To encourage patterns of development that enclose and define street spaces, through the use of

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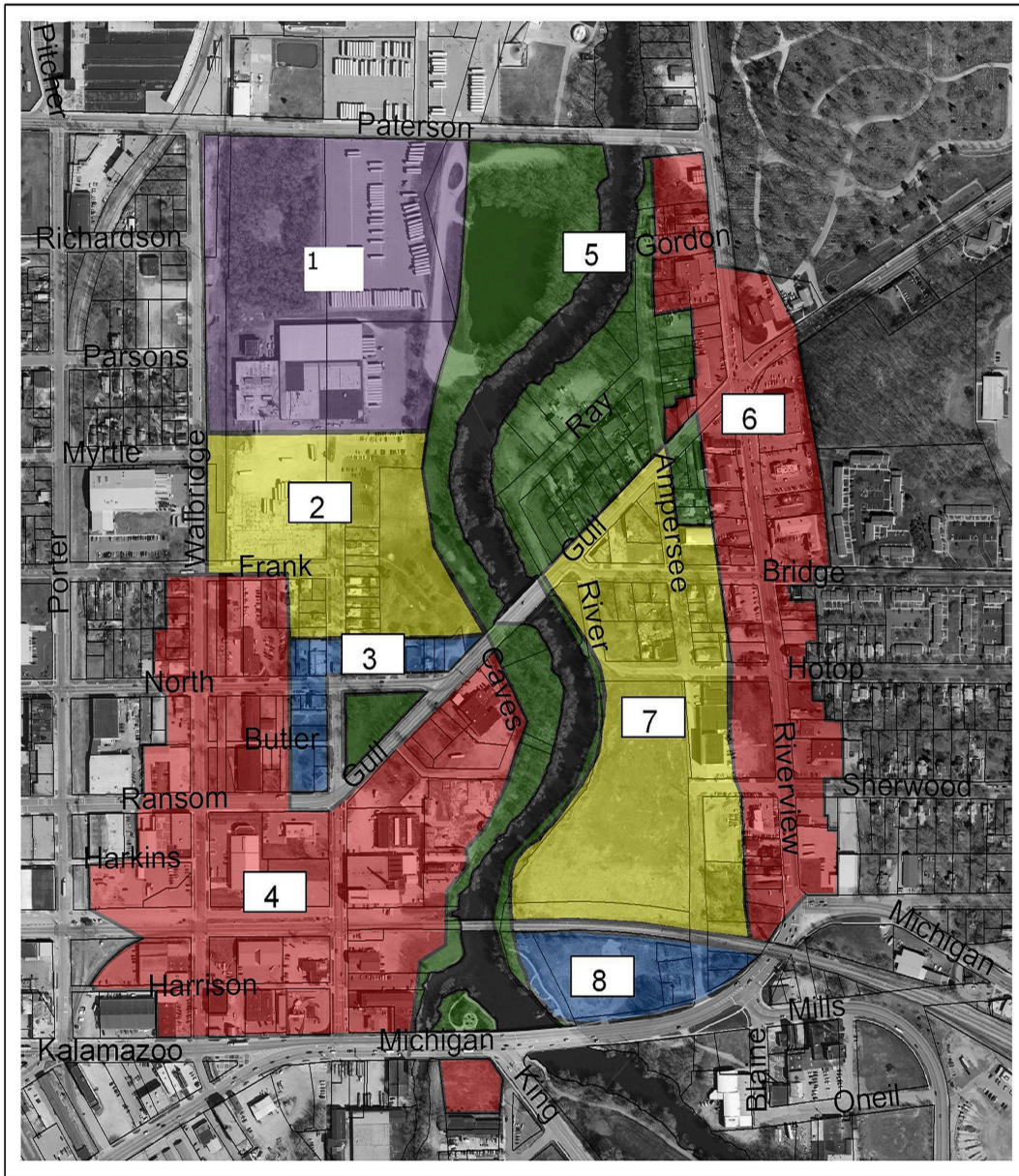
<sup>191</sup> Editor's Note: Former § 3.5, WP-O, Wellhead Protection Overlay, added 5-21-2007 by Ord. No. 1825, was repealed 10-17-2022 by Ord. No. 2056, which ordinance also renumbered former §§ 3.6 and 3.7 as §§ 3.5 and 3.6, respectively.

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appropriate building heights and relatively small front setbacks.

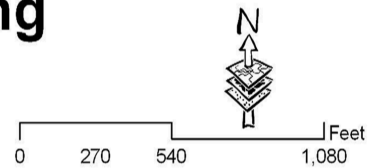
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9. To provide required parking to the rear or to the side of primary structures wherever possible, in order to reduce auto-oriented street frontages.
  10. To encourage innovative and high quality architecture, and exceptional landscaping, lighting, signage, fixtures, and furnishings.
- B. Subareas and Intended Character. The RF-O district has been divided into the following eight subareas, each of which is intended to achieve the general character described below. The boundaries of each subarea are shown on the following map.



The maps from the City of Kalamazoo's GIS are not at surveyor accuracy. The City of Kalamazoo assumes no legal responsibility for the information contained on these maps.

## Riverfront Zoning Sub-Areas



1. Subarea 1 (Northwest Manufacturing/Residential). Subarea 1 currently has an industrial character, but is intended to transition to a residential area over time. All accessory scrap and salvage operations shall be inside an enclosed structure. Residential units should be constructed close to the street frontage of each lot to help define and enclose street spaces.

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2. Subarea 2 (West Residential). Subarea 2 is intended for future single-family residential uses and neighborhood-specific commercial uses, with residential units constructed close to the street frontage of each lot to help define and enclose street spaces. § 3.6
  3. Subarea 3 (West Park Mixed Use). Subarea 3 is intended for future residential and mixed uses, with structures constructed close to the street frontage of each lot to help define and enclose street spaces and park areas. Structures may include live/work units, residential neighborhood commercial, and office uses, and shall be two or three stories in height. No single-story structures shall be permitted.
  4. Subareas and Intended Character, 4. Subarea 4 (Southwest Commercial). Subarea 4 is intended for mixed use, including lower-intensity industrial uses, as well as commercial, office, and residential uses. High-quality design will be required, and for the portion of Subarea 4 which falls within the boundaries of the Downtown Development Authority, design will be guided by the Downtown Design Review Guidelines. **[Amended 1-3-2012 by Ord. No. 1887]**
  5. Subarea 5 (Park). Subarea 5 is intended to be used for park areas and open space along the Kalamazoo River. Existing homes may remain and shall be deemed to be conforming land uses, but new principal and accessory structures shall be required to comply with applicable design standards.
  6. Subarea 6 (Riverview Commercial). Subarea 6 is intended for mixed use of high design quality, with commercial uses predominating. As redevelopment occurs, parking lots shall be located behind or beside (but not in front of) primary structures. New development shall orient to Riverview Drive.
  7. Subarea 7 (East Bank Mixed Use). Subarea 7 is intended to accommodate an urban-style residential neighborhood with residential uses along the river and neighborhood scale commercial uses around the edges of the area. The amount of commercial development shall be limited to ensure the predominantly residential character of the area.
  8. Subareas and Intended Character, 8. Subarea 8 (Southeast Mixed Use). Subarea 8 is a highly visible location with excellent transportation access, and is intended for redevelopment with a mix of office, restaurants or retail uses, or general industrial uses that are combined with restaurant or retail/commercial uses. **[Amended 1-3-2012 by Ord. No. 1887]**
  9. Subarea 9 (South Mixed Use). Subarea 9 is a highly visible location with excellent transportation access, and is intended for redevelopment with a mix of office, restaurant, retail, multiple-family, attached housing, and mixed uses. **[Added 8-6-2018 by Ord. No. 1969]**

C. Permitted Uses.

1. Different land uses are permitted in each subarea of the RF-O district as shown in the attached Table 3.7-1. Abbreviations used in the table shall have the same meanings assigned to them in § 4.1. A "P" indicates that a use is permitted by right, subject to compliance with all other applicable local, state and federal regulations, including the regulations of this Ordinance. A "C" indicates that the use may not be established after October 18, 2005, but if the use was legally established and in existence on that date it may continue to exist as a legal conforming use. An "S" indicates that a use is allowed only if reviewed and approved in accordance with the special use permit procedures of § 8.3D: Special Use Permit. A blank cell indicates that the listed use is not allowed in the respective subarea.
2. Some uses are subject to additional requirements set forth (a) in the right-hand column of Table 3.7-1<sup>192</sup> (which cross-references materials in Chapter 4), and/or (b) subarea-specific use standards set forth in § 3.7D below. In the event of any conflict between Table 3.7-1 and Table 4.2-1, the materials in Table 3.7-1 shall apply.

D. Subarea-Specific Use Regulations. The standards in this Subsection D apply in specific subareas of the RF-O

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<sup>192</sup>Editor's Note: Table 3.7-1 is included as an attachment to this chapter.

§ 3.6 district. In the event of a conflict between the use-specific standards in § 4.2 and the subarea-specific standards in § 3.7D, the stricter provision shall apply. Where the standards below reference termination or abandonment, it shall be presumed that a termination, abandonment, or relocation has occurred if there has been a complete cessation of the use continuously for a period of 180 days. Maintaining of utility services or payment of taxes during this one-hundred-eighty-day period is insufficient to overcome this presumption unless other factors clearly showing that the use was not terminated, abandoned, or relocated is provided to the City Planner.

1. Subarea 1 (Northwest Industrial/Residential).
  - a) If a use categorized as an industrial use in Table 3.7-1 terminates, is abandoned, or relocates out of Subarea 1, no industrial use shall occupy any part of such property.
  - b) Residential uses shall be developed pursuant to an overall development plan or a PUD requiring that at least five dwelling units be developed in each phase.
    - 1) Construction of single-family homes unrelated to an approved overall development plan is not permitted.
2. Subarea 2 (West Residential).
  - a) Uses categorized as commercial uses in Table 3.7-1 shall only be permitted if they have a gross floor area of less than 2,500 square feet and primarily provide services to residents in the surrounding area.
3. Subarea 3 (West Park Mixed Use).
  - a) Uses categorized as commercial uses in Table 3.7-1 shall only be permitted if they have a gross floor area of less than 3,500 square feet, are oriented towards and adjacent to a public park or open space, and primarily provide services to residents in the immediately surrounding area.
4. Subarea 4 (Southwest Commercial).
  - a) Uses categorized as industrial uses or commercial-vehicle and equipment sales and service uses in Table 3.7-1 shall only be permitted after issuance of a special use permit.
  - b) Uses categorized as eating and drinking establishments in Table 3.7-1<sup>193</sup> shall be required to have sit-down facilities as well.
  - c) Residential uses shall only be developed pursuant to an overall development plan or a PUD requiring that at least five dwelling units be developed in each phase. Construction of single-family homes unrelated to an approved overall development plan is not permitted.
5. Subarea 5 (Park).
  - a) If an existing industrial or commercial use terminates, is abandoned, or relocates out of Subarea 5, no industrial or commercial use shall occupy any part of such property.
6. Subarea 6 (Riverview Commercial).
  - a) Uses categorized as industrial uses or commercial-vehicle and equipment sales and service uses in Table 3.7-1 shall only be permitted after issuance of a special use permit.
  - b) Uses categorized as eating and drinking establishments in Table 3.7-1 shall be required to have sit-down facilities as well.

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193. Editor's Note: Table 3.7-1 is included as an attachment to this chapter.

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- c) Residential uses shall only be developed pursuant to an overall development plan or a PUD requiring that at least five dwelling units be developed in each phase. Construction of single-family homes unrelated to an approved overall development plan is not permitted. § 3.6

7. Subarea 7 (East Bank Mixed Use).

- a) New residential uses may only be developed pursuant to an overall development plan or a PUD requiring that at least six dwelling units be developed in each phase. Residential units may include live/work units and attached units, and all residential units shall be two to four stories in height. Residential units with more than four stories shall not be located closer than 300 feet from the Kalamazoo River. No single-story structures shall be permitted.
- b) Uses categorized as industrial uses in Table 3.7-1 shall not be permitted in Subarea 7. Uses categorized as commercial uses in Table 3.7-1 that are not oriented towards and adjacent to Riverview Drive or Gull Road shall only be permitted if they have a gross floor area of less than 3,500 square feet and provide services to residents in the immediately surrounding area.

8. Subarea 8 (Southeast Mixed Use).

- a) Residential uses may be permitted as part of a mixed-use development where ground floor uses are nonresidential.

9. Subarea 9 (South Mixed Use). **[Added 8-6-2018 by Ord. No. 1969]**

- a) Mixed-use buildings are encouraged with first floors containing office and retail uses, and upper floors containing residential uses.
- b) Buildings shall be constructed close to the street frontages with parking at the rear or side. No parking in the front of the building is allowed.
- c) Buildings shall be a minimum of 20 feet in height, and shall be no more than two stories taller than adjacent buildings.
- d) Sidewalks shall be provided on all properties, and bike lanes shall be included in the street areas whenever possible.
- e) Whenever possible, building and site design shall take advantage of the Portage Creek by including balconies that face the creek, porches, sitting areas, and outdoor customer areas for business uses.
- f) The street network in Subarea 9 shall have a high degree of connectivity and shall offer multiple circulation routes within the district and to adjacent areas.
- g) Residential uses shall require that at least five dwelling units be developed in each phase. Residential units may include live/work units and attached units. All residential units shall be two to four stories in height. Residential units with more than four stories shall not be located closer than 300 feet from the Kalamazoo River.
- h) Drive-through designs will not impact the walkability of the area and will be located to the rear or side of the building. A primary entry from the frontage street must be maintained for pedestrian access. Primary building face shall be located along street frontage. Front yard may only contain café style seating, landscaping, and pedestrian infrastructure. (See Figure 1.)

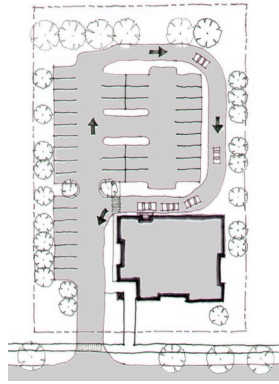
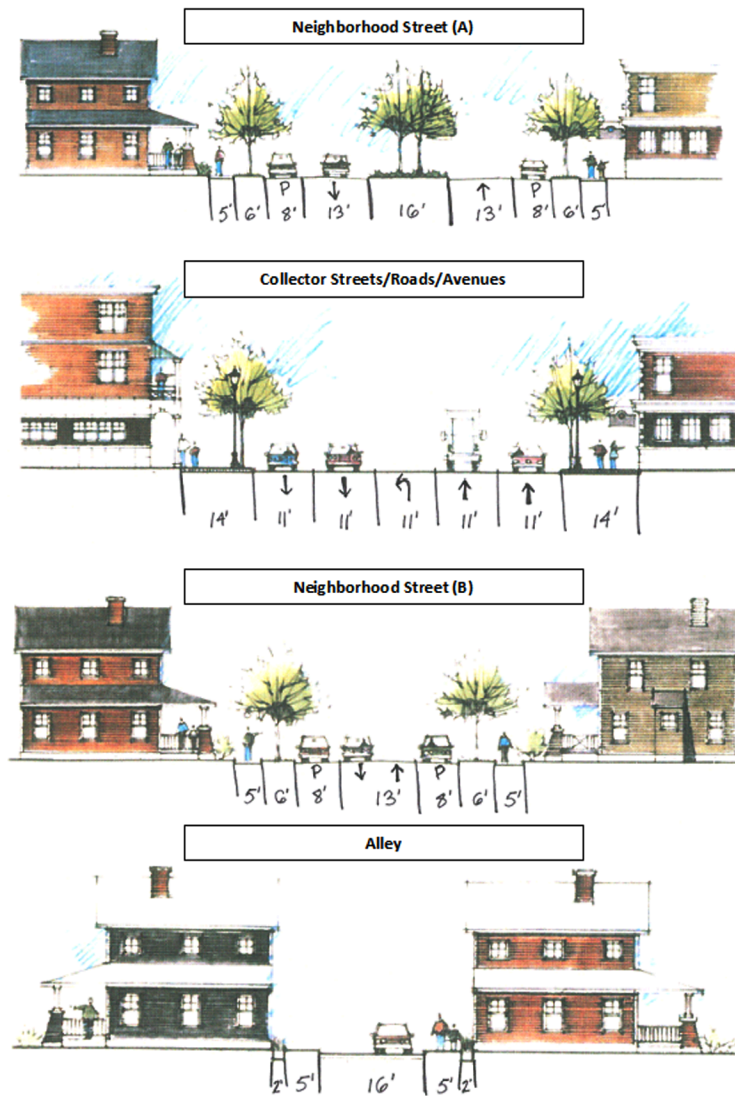


Figure 1

- E. Development and Design Standards. All new development in the RF-O district shall comply with the following standards:
1. Street Network. The street network, including sidewalks, in the RF-O district shall have a high degree of connectivity and shall create multiple circulation routes both within the district and to adjacent areas outside the RF-O district boundaries.
  2. Street Design. The RF-O zone district is intended to have relatively narrow streets in order to encourage slower automobile travel, a friendlier pedestrian environment along the right-of-way, and to encourage primary buildings to be built close to the street. Typical street dimensions are illustrated below.





3. Parking. The requirements of § 6.1: Off-Street Parking and Loading, shall apply within the RF-O zone district, except that:
  - a) Minimum off-street parking requirements for all uses that are categorized as commercial uses in Table 3.7-1 and that are not oriented to and adjacent to Riverview Drive, Michigan Avenue, Walbridge Street, or Gull Road may be reduced by 25% to reflect expectations of increased walkability and reduce auto-dependence within the district.
  - b) Uses categorized as commercial uses in Table 3.7-1 may count on-street parking spaces immediately adjacent to or directly in front of the subject property towards the minimum off-street parking requirements. Each qualifying on-street parking space shall reduce the minimum required off-street parking by 1/2 space.
4. Drive-In and Drive-Through Facilities. All drive-in and drive-through facilities shall comply with the following standards. In the event these standards conflict with those standards in § 6.1C.3, Stacking Spaces for Drive-In or Drive-Through Uses, or § 6.3E, Screening of Drive-Through Facilities, or with any other standard in this Ordinance, these standards shall govern.
  - a) Service areas and stacking lanes for all new drive-in or drive-through facilities must be set back a



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- minimum of five feet from all lot lines. When abutting residential uses, a six-foot-tall, opaque privacy fence is required to be installed on or near the common border to screen the drive-in or drive-through facility from the residential structure. A row of six-foot-tall evergreen trees that provide a continuous opaque screen may be substituted for the fence. All driveway entrances, including stacking lane entrances, must be located at least 50 feet from any intersection. The distance is measured along the property line from the junction of the two street lot lines to the nearest edge of the entrance.
- b) Stacking lanes must contain a minimum of 90 feet for a single stacking lane or 54 feet per lane when there is more than one stacking lane. A stacking lane is measured from the curb cut to the service area. Stacking lanes do not have to be linear.
  - c) When abutting residential parcels, drive-in or drive-through facilities with noise-generating equipment must document in advance that the facility will meet the City Noise Ordinance regulations.<sup>194</sup> Noise-generating equipment includes items such as speakers and exterior air handling devices.
5. Outdoor Display Areas. Indoor retail sales and service uses may have small outdoor display areas, with a total area not to exceed 10% of the total sales floor area. These outdoor display areas must be located on the same parcel as the primary business location. All outdoor display areas must be properly identified and contained, and must be open only during store hours. Outdoor display areas must be either removed when the retail sales and service use is closed, or completely contained within a decorative fence at least four feet in height. In the event these standards conflict with any other standard in this Ordinance, these standards shall govern.
  6. Dimensional Standards.<sup>195</sup>
  7. Building Design Standards. All development within the RF-O zone district shall comply with all applicable design standards in § 6.5: Design Standards, unless such standards are inconsistent with the design standards in Subsections E7(a) through (d) below — in which case the standards below shall govern.
    - a) All Development and Structures.
      - 1) All primary structures shall be oriented to a street or driveway (rather than an internal courtyard), and shall have direct walking access from the front door of the primary structure to the street sidewalk system.
      - 2) All development shall incorporate the open space corridors and trails identified in the Kalamazoo Riverfront Redevelopment Plan. No applicant shall be required to dedicate to the City or to public use any portion of any such open space system or trail if the amount of such dedication would violate state or federal law regarding development exactions.
      - 3) Residential garages with access from alleys are preferred. Where lots receive garage access from the street, garages should be designed so that the plane of the garage door is roughly perpendicular to the street. Where a garage door(s) is located roughly parallel to and visible from the street, such garage door(s) shall not occupy more than 45% of the total width of the front elevation of the residential structure. The front plane of the garage shall not extend closer to the street than the front plane of the primary structure.
      - 4) A wide variety of building materials may be used for building exterior surfaces, including but not limited to metal, granite, stone, terra cotta, concrete, glass, brick, stucco, decorative

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**194. Editor's Note:** See Ch. 21, Noise.

**195. Editor's Note:** Table RF-O.1 is included as an attachment to this chapter.  
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concrete block, and wood clapboard. Alternate or new materials may also be used as long as they are compatible with the physical characteristics of the historic materials which lend character to this area of the City. § 3.6

- 5) The use of the following materials requires review and approval as set forth in Subsection E8(b) below: horizontal or vertical rough-textured wood siding, stone and gravel aggregate, shingles, vinyl or aluminum siding, and TI-II (plywood).
- b) Residential Structures. All new residential structures shall comply with the standards in this Subsection E7(b). Multifamily structures shall be required to comply with the multifamily design standards in § 6.5A, Multifamily Residential.
- 1) Residential Forms (Single-Family and Duplex). All new residential structures shall closely resemble the design and character of the residential examples illustrated in the document: Recommended Housing Styles for the Riverfront Target Area.
  - 2) Residential Design Menu (Single-Family and Duplex). Each single-family detached or duplex dwelling unit (a) shall be between 1 1/2 and three stories in height and (b) shall include a front door area designed to be the dominant feature on the front facade of the house through the use of clerestory windows, sidelight windows, double doors, or front porch columns, and (c) shall contain at least two of the following three architectural features:
    - Front or side porch with a minimum depth of five feet, and minimum floor area of at least 50 square feet.
    - Total area of brick, stucco, or stone veneer (or a combination thereof) equal to at least 50% of the entire area of all facades visible from public streets or adjacent residential properties.
    - A house design where garage doors do not appear on the front elevation of the house but are perpendicular to the street or located behind the primary structure.
- c) Mixed Use Structures. New mixed-use structures shall incorporate at least two of the following four architectural features.
- A minimum of 10% of each facade area that faces a public street shall be composed of transparent materials, unless the Site Plan Review Committee determines that such transparency would be inconsistent with the operational requirements of the building. At least one-half of this required amount of transparent materials shall be provided so that the lowest edge of the transparent materials is no higher than four feet above the street level. In areas used to meet this transparency requirement, glazing shall have a visible light transparency percentage of at least 60%.
  - Each facade greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the facade and extending at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 100 horizontal feet. Walls whose elevations include 25% of their surface area in balconies, patios, windows, or natural materials shall be exempt from this requirement.
  - Each building with commercial or retail uses shall have clearly defined, highly visible customer entrances with features designed to emphasize the importance of the entrance, which may include but are not limited to canopies or porticos, overhangs, recesses or projections, arcades, arches, peaked roof forms, outdoor patios, display windows, architectural tilework or moldings integrated into the building design, or integrated planters or wing walls that incorporate landscaped areas or seating areas.

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- The primary structures shall have a sloping roof with a pitch of three in 12 or greater, which shall incorporate either projecting gables or one horizontal or vertical break in the roofline per 60 linear feet of roof length.

d) Commercial Structures.

- 1) Commercial structures in Subsections 1, 2, 3, and 7 shall comply with those standards in § 6.5A, Neighborhood Commercial, as applicable to the CN-1 zone district. In case of any conflict between the requirements of § 6.5A and the requirements of this RF-O zone district, the latter shall govern. Loading areas shall be located where they are not visible from public streets or from adjacent properties with residential uses. If this is not possible, screening of loading areas shall comply with the requirements of § 6.2.
- 2) Commercial structures in Subsections 4, 6, and 8 shall comply with those design standards in § 6.5A, Neighborhood Commercial, as applicable to the CN-2 zone district. In case of any conflict between the requirements of § 6.5A and the requirements of this RF-O zone district, the latter shall govern. Loading areas shall be located where they are not visible from public streets or from adjacent properties with residential uses. If this is not possible, screening of loading areas shall comply with the requirements of § 6.2.

e) Industrial Structures.

- 1) All industrial structures shall comply with those design standards in § 6.5B, Large Retail Establishments, regardless of whether the industrial structure contains retail uses, and regardless of whether the gross floor areas of the structure exceed 50,000 square feet. In case of any conflict between the requirements of § 6.5B and the requirements of this RF-O zone district, the latter shall govern.
- 2) Administrative/office portions of the structure shall be located in the portion of the building facing the street.
- 3) Loading areas and overhead doors shall be located where they are not visible from public streets or from adjacent properties with residential uses. If this is not possible, screening of loading areas shall comply with the requirements of § 6.2.

8. Procedure.

- a) All proposed development in the RF-O district shall be subject to the requirements of the site plan review process set forth in § 8.3H, as applicable. The comments and recommendations made during that process shall be incorporated into the design review process, and compliance with the design standards and guidelines of § 3.7E. shall be required.
- b) All residential and other development in the RF-O district that does not require site plan review under § 8.3H shall require the prior approval of the City Planner to ensure that such development is in compliance with the design standards and guidelines under § 3.7E.



CHAPTER 4  
Use Regulations

**§ 4.1. Use Table.**

The Use Table of this section lists the principal uses allowed within the Base Zoning Districts. The symbols used in the Use Table are defined in the following paragraphs.<sup>196</sup>

**§ 4.2. Use-Specific Standards.**

- A. Adult Foster Care Family Home and Group Home. Any facility required to be licensed by the State of Michigan or the City of Kalamazoo shall have a valid license at all times, and it shall be a violation of this Code to operate at any time without a valid license. Any facility with seven or more residents must be located at least 1,500 feet from any adult foster care facility with seven or more residents.
- B. (Reserved)<sup>197</sup>
- C. Assisted Living Facility, Foster Family Group Home, Foster Family Home, Nursing/Convalescent Home; Rehabilitation Center. Any facility required to be licensed by the State of Michigan or the City of Kalamazoo shall have a valid license at all times, and it shall be a violation of this Code to operate at any time without a valid license.
- D. Attached Dwelling.
  - 1. General. An attached house is a dwelling unit, located on its own lot that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 50% of the length of the side of the dwelling units. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a rowhouse. Attached houses must comply with the Density, Intensity and Dimensional standards of § 5.1: Residential District Standards, except where such standards are expressly modified by the provisions of this section.
  - 2. Standards that Apply in the RD Districts. The following standards apply to attached housing in the RD districts:
    - a) No more than two units may be attached by a common wall. Structures containing three or more attached dwelling units are prohibited in the district.
    - b) Each attached house must be on a lot that complies with the lot area and width standards for new lots in the underlying RD district.
    - c) The minimum required interior side setback on the side of the dwelling unit containing the common wall is reduced to zero. The (interior) side and rear setback standards of the underlying district apply around the perimeter of the project.
    - d) On corner lots, either the rear setback or interior side setback may be reduced to zero. However, the remaining interior side or rear setback must comply with the rear setback standards of the underlying RD district.

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**196.Editor's Note: The Use Table is included as an attachment to this chapter.**

**197.Editor's Note: Former Subsection B, Adult Regulated Uses, was repealed 6-6-2022 by Ord. No. 2049.**

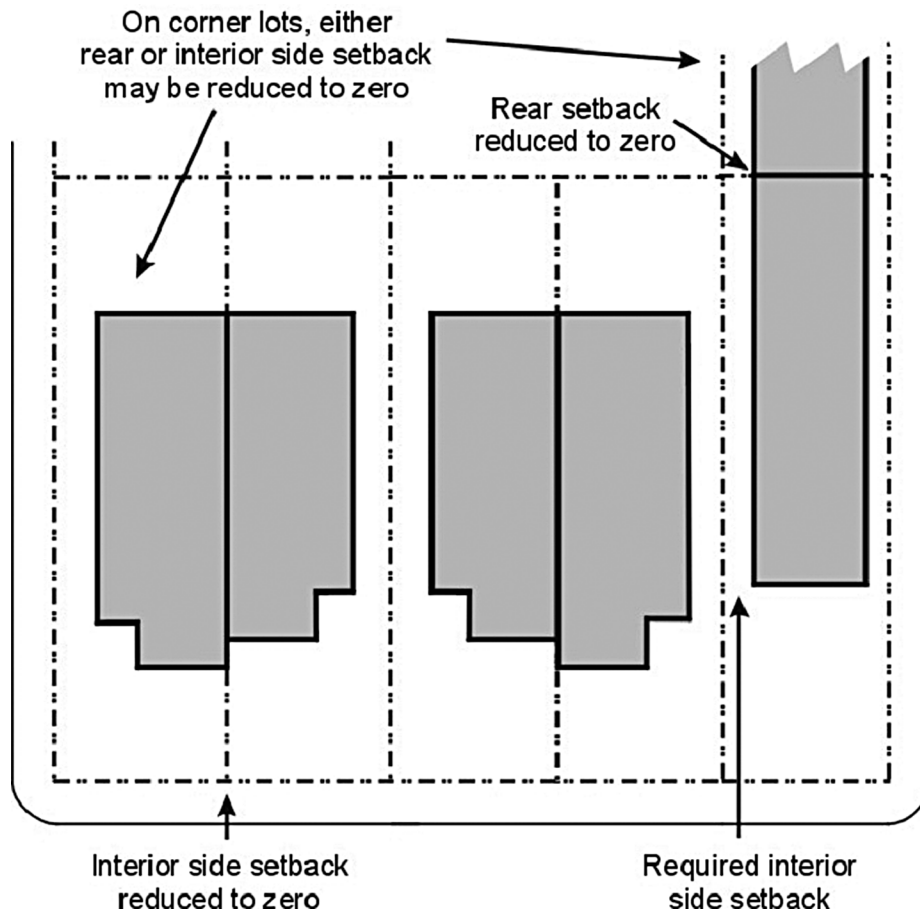


Figure 4-1: Corner Lots

- e) Garage door areas may not comprise more than 40% of the width of the street-facing facade of the structure containing the attached housing units. The maximum continuous, uninterrupted length of a garage door (or combination of smaller, one-car garage doors) along the street-facing facade may not exceed 25 feet in width. All garage doors must be recessed at least five feet from the front building plane. The intent of these standards is to prevent garages and blank walls from being the dominant visual feature on the front of the structure.
  - f) Facades and roofs must be designed in a manner that provides distinguishing characteristics and relief between attached dwelling units. Such variety may consist of occasional relief in facade depth from unit to unit, unique articulations in architectural elements such as windows, entries and decorative facade building materials, and variations in roof design such as cornice articulation and roof pitch/direction. **[Added 3-19-2007 by Ord. No. 1822]**
  - g) Attached dwelling units in the RD districts shall be oriented toward, and be directly accessible from, the public way or street on which the building fronts. **[Added 3-19-2007 by Ord. No. 1822]**
3. Standards that Apply in the RM-15, RM-24, RM-36, and RMU Districts. The following standards apply to attached housing in the RM districts:
- a) Up to eight dwelling units may be attached (have common walls) in the RM-15 district. There is no limit on the number of attached units in the RM-24, RM-36, and RMU districts. Attached dwelling units in all RM districts must be oriented toward, and be directly accessible from, the public way or street on which the building fronts.

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- b) The minimum lot area and width standards do not apply to attached houses in the RM districts. The minimum lot area for an attached house in the RM district is 3,000 square feet or the minimum lot area per dwelling unit of the underlying district, whichever is greater.
- c) The minimum interior side setback on the side containing a common wall is reduced to zero. The (interior) side and rear setback standards of the underlying district apply around the perimeter of the project.
- d) On corner lots, either the rear setback or interior side setback may be reduced to zero. However, the remaining interior side or rear setback must comply with the rear setback standards of the underlying district.
- e) Facades and roofs must be designed in a manner that provides distinguishing characteristics and relief between attached dwelling units. Such variety may consist of occasional relief in facade depth from unit to unit, unique articulation in architectural elements such as windows, entries and decorative facade building materials, and variations in roof design such as cornice articulation and roof pitch/direction.
- f) A common access to the rear of the lots for common or individual parking is required and may take the form of an alley or an easement. Common access drives must be at least 12 feet wide if designed for one-way traffic and at least 20 feet wide if designed for two-way traffic.
- g) Garage door areas may not comprise more than 40% of the width of the street-facing facade of the structure containing the attached housing units. The maximum continuous, uninterrupted length of a garage door (or combination of smaller, one-car garage doors) along the street-facing facade may not exceed 25 feet in width. A minimum separation of six feet is required between such expanses of garage doors. All garage doors must be recessed at least five feet from the front building plane. The intent of these standards is to prevent garages and blank walls from being the dominant visual feature on the front of the structure.

4. Standards That Apply in the RM-15C District.

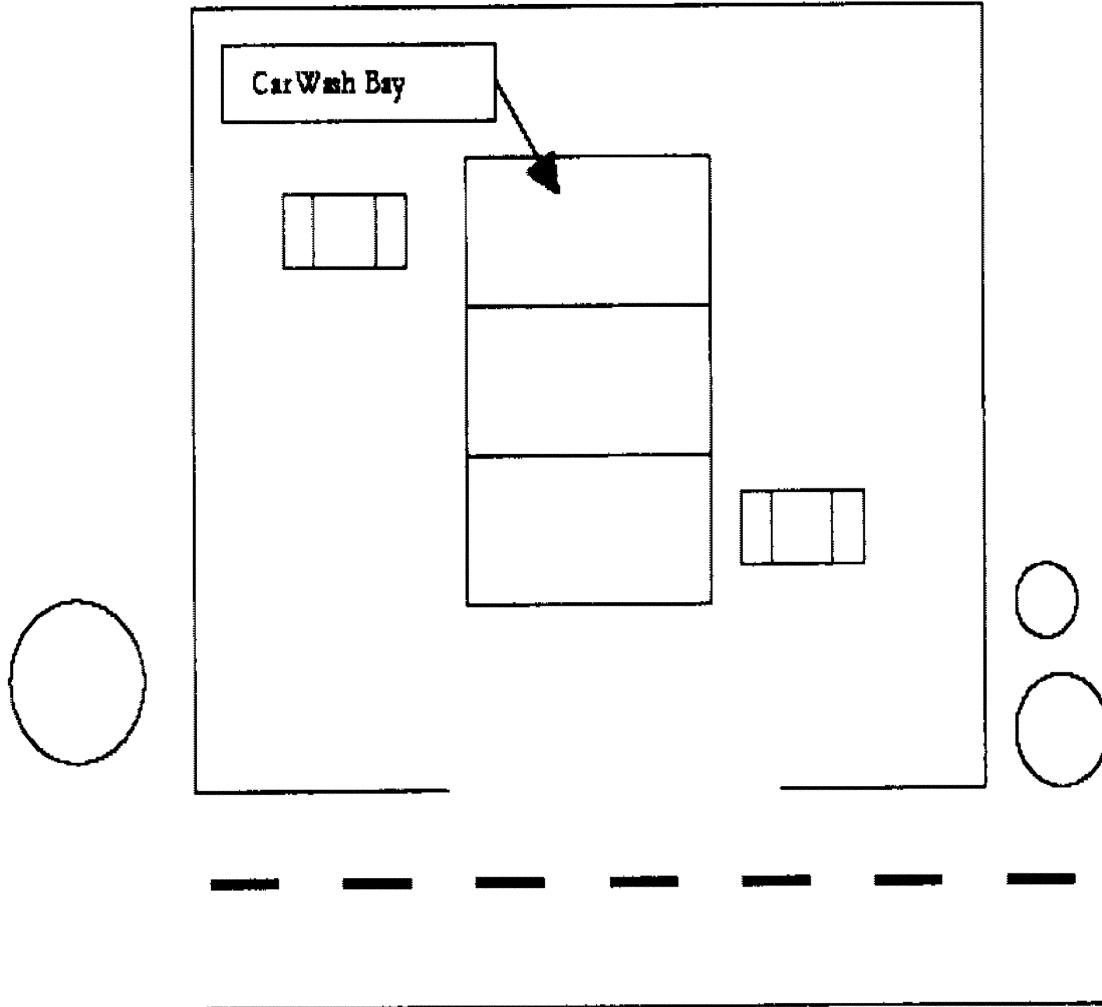
- a) At least 50% of front and side exteriors (excluding the area of doors or windows) must be comprised of natural brick, stone, wood siding, or other natural materials (excluding plywood or concrete block).
- b) The roof line of each dwelling unit must be distinct through either a separation of roof pitches (minimum difference of at least 5°), a difference in roof direction, a difference in roof height (minimum of two vertical feet), or a combination of methods.
- c) The front facade of each attached unit must be distinct through either the use of different facade materials, staggered building lines (minimum of two feet), an identifiable permanent architectural design element such as a chimney, pilaster or column (excluding gutter spouts or siding trim), or a combination of methods.
- d) Garage door areas may not comprise more than 40% of the width of the street-facing facade of the structure containing the attached housing units. The maximum continuous, uninterrupted length of a garage door (or combination of smaller, one-car garage doors) along the street-facing facade may not exceed 25 feet in width. A minimum separation of six feet is required between such expanses of garage doors. All garage doors must be recessed at least five feet from the front building plane. The intent of these standards is to prevent garages and blank walls from being the dominant visual feature on the front of the structure.
- e) For all dwelling facades that face streets, all windows shall contain shutters on each side or other decorative window features. **[Added 3-19-2007 by Ord. No. 1822]**

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E. Brewpub, Sit Down Restaurant, Tavern or Lounge. In the CN-1 district, a brewpub, sit down restaurant, tavern or lounge may not exceed occupancy load of 100 persons per floor (not including outdoor seating, which is allowed provided that a minimum pedestrian clear space of four feet is maintained along all public walkways at all times and provided that all trash receptacles related to such outdoor seating area are emptied and moved to a secure area off the public walkways after business hours). § 4.2

F. Car Wash. All car wash facilities shall comply with the following conditions:

1. A car wash facility is prohibited at the intersection of two arterial streets, unless it is located in a center occupying at least two acres and containing other commercial establishments occupying at least 12,000 square feet gross floor area.
2. The car wash facility, including all driveways, entrances, parking areas, and appurtenant structures, shall be set back a minimum of 10 feet from any adjacent street. The entire 10 foot setback shall be landscaped pursuant to § 6.2.H.2: Buffer Area Landscaping Between Land Uses.
3. The car wash facility, including all driveways, entrances, parking areas, and appurtenant structures, shall be set back a minimum of 20 feet from the boundary of any residential zone district, and from any property with a current residential use. In addition, where the car wash facility is located adjacent to a residential zone district or any property in current residential use, a six foot high opaque wall shall be erected and maintained along such boundary. Such wall shall comply with all applicable requirements for walls in § 6.3: Screening and Fences.
4. To enhance appearance from the street, and to reduce noise impacts on properties sharing a rear lot line with the property, wash bays shall be sited parallel to the adjacent street as illustrated below.





**Figure 4-2: Car Wash Bays Parallel to Street**

5. A hard surfaced driveway of one or more lanes shall be constructed on the property to provide for continuous movement of vehicles into the wash tack or wash bay.
6. The car wash facility shall comply with all applicable requirements for parking and stacking spaces contained in § 6.1: Off-Street Parking and Loading.
7. The car wash facility shall comply with those Operational Performance Standards related to noise set forth in § 6.6.B: Noise.

**G. Cluster Housing Developments.**

1. Purpose. The cluster housing standards of this section have several potential public benefits. They:
  - a) Provide flexible development options where the standard rectilinear lot pattern is not practical because of physical constraints;
  - b) Promote the preservation of open and natural areas;
  - c) Allow for common open areas within a development project while still achieving the density of the underlying district; and

d) Support reductions in development costs.

2. Approval Procedure. Cluster housing developments are allowed by-right. Review for compliance with applicable regulations will occur as part of the land division review process or site condominium process.
3. Density. The overall development may not exceed the maximum density allowed by the underlying district or the maximum density that could be achieved through a conventional subdivision (where all lots comply with minimum lot area and width standards). The City Planner is authorized to require that the developer prepare a density yield analysis comparing the number of dwelling units that could be developed under a conventional subdivision with the number that could be prepared under a cluster housing development.
4. Lot Size. There is no minimum lot size (area or width) requirement for cluster housing developments. Lot sizes must be adequate to meet all applicable standards of this Ordinance.
5. Housing Types.
  - a) Attached and detached houses are the only type of housing allowed in a cluster housing development. The proposed building envelope for all houses must be shown on the site plan with enough detail so that compliance with required density and dimensional standards can be determined.
  - b) The number of attached houses that may be attached by a common wall is limited as follows:

<b>Zone District</b>	<b>Maximum Number of Attached Units</b>
RS-4, RS-5 and RS-7	Maximum 4 units attached by a common wall
RD-8 and RD-19	Maximum 6 units attached by a common wall
RM	Maximum 8 units attached by a common wall

6. Setbacks.
  - a) A setback equal to the minimum street front of the underlying district must be provided along the entire perimeter of the cluster housing development that is adjacent to any street or right-of-way.
  - b) A setback equal to the minimum rear setback of the underlying district must be provided along the entire perimeter of the cluster housing development that is adjacent to any street or right-of-way.
  - c) Within the development, the distance between detached houses must be at least 10 feet.
  - d) These required front and side yard setbacks may not be counted as open space for the purpose of meeting the minimum open space standards for cluster housing developments.
7. Building Coverage. The building coverage standards of the underlying district do not apply to each individual lot, but the total building coverage of all lots (in aggregate) may not exceed the maximum building coverage standard of the underlying district.
8. Designated Open Space.
  - a) At least 50% of the gross land area within a cluster housing development must be preserved as open space.
  - b) Open space may include active or passive recreation areas for residents or conservation areas for natural resources such as wetlands, steep slopes, floodplains, and woodlands.

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- c) All of the required open space must be set aside through conveyance or other means as is approved as to form by the City Attorney, such as:
- 1) Recorded deed restrictions.
  - 2) Covenants that run perpetually with the land.
  - 3) A conservation easement.
  - 4) Land trusts.
- d) Such conveyance or other means must assure that the designated open space will be protected from all forms of development, except as shown on the approved site plan, and may not be changed to another use without express, prior approval by the decision-making body that approved it. Such conveyance or other means must also:
- 1) Indicate the proposed allowable use of the designated open space.
  - 2) Require that the designated open space be maintained by parties who have an ownership interest in the designated open space.
  - 3) Provide standards for scheduled maintenance of the designated open space.
  - 4) Provide for maintenance to be undertaken by the City in the event that the dedicated open space is inadequately maintained, or is determined by the City to be a public nuisance, with the assessment of costs upon the property owners within the cluster.
- H. Community Service Center, Cultural Exhibits, Libraries, and Museums; Neighborhood Centers; Religious Assembly. In the RS-4, RS-5, RS-6, RD-8, and RD-19 districts, (a) no facility shall contain a meeting hall, assembly room, or worship room capable of accommodating more than 500 persons under the Kalamazoo Fire Code, and (b) no facility shall contain more than 50,000 square feet of gross floor area. In the RM-15, RM-15C, RM-24, RM-36, and RMU districts (a) no facility shall contain a meeting hall, assembly room, or worship room capable of accommodating more than 1,000 persons under the Kalamazoo Fire Code, and (b) no facility shall contain more than 100,000 square feet of gross floor area. All facilities shall comply with the Operational Performance Standards for noise set forth in § 6.6.B: Noise
- I. Convenience Stores; Fire, Insurance, and Real Estate; Food Sales (Grocery); Personal Convenience Services; Personal Improvement Services. **[Amended 6-2-2014 by Ord. No. 1922]**
1. In the RMU, CMU, and CN-1 Districts, the gross floor area may not exceed 3,500 square feet.
  2. A convenience store which sells packaged alcoholic beverages for consumption off the premises or a package liquor store shall not be located:
    - a) Within 500 feet, as measured according to the method set forth at MCL 436.1503, of either:
      - 1) A structure set apart primarily for the purpose of religious assembly, which is tax exempt under the laws of this state, with which clergy is associated, and the structure is not put to any other inconsistent use; or
      - 2) A school building.
    - b) Within 2,640 feet of another convenience store or a gasoline and fuel sales establishment without vehicle service or repair, when those uses sell packaged alcoholic beverages for consumption off the premises
    - c) Within 2,640 feet of another package liquor store.

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## J. Day-care center (Commercial or Institutional).

1. If such use is required to be licensed by the State of Michigan, a valid license shall be in effect at all times that the use is in operation.
2. In the M-1 and M-2 Districts, day-care centers are allowed only when developed as an accessory use to a permitted use. Such accessory shall occupy not more than 25% of the gross floor area of the principal building, or shall be located in a freestanding building in a mixed use development.
3. At least one outdoor play area shall be provided, consisting of at least one 100 square feet for each child in the average daily attendance and enclosed by a fence of at least three feet six inches in height.

## K. Day Care Homes (Group and Family).

1. If such use is required to be licensed by the State of Michigan, a valid license shall be in effect at all times that the use is in operation.
2. If a Group Day Care Home is proposed for property in a residential district after October 18, 2005, then:
  - a) The structure in which it is located shall be similar in appearance to the character of the neighborhood in terms of architectural style, predominant building materials, building mass and height, and setbacks; and
  - b) At least one outdoor play area shall be provided, consisting of at least 100 square feet for each child in the average daily attendance and enclosed by a fence of at least three feet and six inches in height.
  - c) All the development standards of this Ordinance shall be met, and the use shall be located on property that fronts a collector or arterial street.

L. Detached Dwelling. In RM-15C District, at least 50% of front and side exteriors (excluding the area of doors or windows) must be comprised of natural brick, stone, wood siding, or other natural materials (excluding plywood or concrete block).

M. Fast-Order Food. Outdoor seating is allowed provided that a minimum pedestrian clear space of four feet is maintained along all public walkways at all times and provided that all trash receptacles related to such outdoor seating area are emptied and moved to a secure area off the public walkways after business hours).

## N. Gasoline and Fuel Sales (Without Vehicle Service or Repair).

1. Fuel pumps, pump islands, detached canopies, compressed air connections, and similar equipment shall be set back a minimum of 15 feet from any street right-of-way, and a minimum of 20 feet from all property lines abutting a residential zoning district, use, or property.
2. The principal service station building and any accessory structures, except for fuel pumps, pump islands, detached canopies, compressed air connections, and similar equipment, shall be set back a minimum of 40 feet from all street rights-of-way and from all property lines abutting a residential zoning district or a parcel containing residential uses.
3. When gasoline and fuel sales abuts a residential zoning district, or a property in actual residential use, buffering between such uses shall be provided as set forth in § 6.2H.2.b, Option B, and all trees and shrubbery shall be planted on that portion of the buffer located between the wall and the residential property.
4. Outdoor display of merchandise shall be limited to only the display of automotive fluids and new tires sold and/or installed on the premises.

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5. A single-bay car wash is allowed as an accessory use to a permitted service station subject to the following development and design standards: § 4.2
- a) To the maximum extent practicable, the entrance to the car wash bay shall be sited so as not to be visible from the lot's primary street frontage;
  - b) The car wash bay shall be limited in size to accommodate a single vehicle at a time;
  - c) The car wash bay shall be located outside of all required setback and buffer areas;
  - d) In addition to any other off-street parking requirements or vehicle stacking requirements, the subject property shall contain adequate space to allow a minimum of three cars to stack in a line for car wash services without using or obstructing any portion of an adjacent public sidewalk or right-of-way; and
  - e) Where the use abuts a residential zoning district or a parcel containing residential uses, the hours of operation for the car wash shall be limited to between 7:00 a.m. and 8:00 p.m.
6. A canopy over the fuel pumps may be erected subject to the following standards:
- a) The canopy may be either attached or detached from the principal building.
  - b) The height of the canopy from the ground to the underside of the canopy shall not exceed 18 feet.
  - c) The canopy structure shall comply with all minimum building setback standards applicable to the principal structure.
  - d) The canopy structure shall not be enclosed.
  - e) The canopy shall utilize the same architectural and design treatment, including materials and colors, as the principal building.
  - f) All lighting on the underside of the canopy shall be recessed. A maximum of 25% of each canopy facade area visible from a public street may be internally illuminated. No portion of any canopy facade area may be externally illuminated. Each side of a fuel pump canopy shall be considered a separate facade area.
7. All such uses shall comply with all other applicable requirements of this code, including without limitation § 6.1C.3: Stacking Spaces, § 6.1H: Restrictions on Parking Areas in Nonresidential Districts, § 6.2: Landscaping and Open Spaces, § 6.3: Screening and Fencing, § 6.4: Lighting, and § 6.6: Operational Performance Standards.
8. Any such use which sells packaged alcoholic beverages for consumption off the premises shall not be located: **[Added 6-2-2014 by Ord. No. 1922]**
- a) Within 500 feet, as measured according to the method set forth at MCL 436.1503, of either:
    - 1) A structure set apart primarily for the purpose of religious assembly, which is tax exempt under the laws of this state, with which clergy is associated, and the structure is not put to any other inconsistent use; or
    - 2) A school building.
  - b) Within 2,640 feet of:
    - 1) A gasoline and fuel sales establishment, without vehicle service or repair, which sells packaged alcoholic beverages;

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- 2) A convenience store which sells packaged alcoholic beverages for consumption off the premises; or
- 3) A package liquor store.

O. Gasoline and Fuel Sales (With Vehicle Service or Repair). All uses in this category shall comply with those requirements in Subsection N above, and in addition shall comply with the following requirements.

1. Hydraulic hoists, pits, and all lubrications, greasing, automobile washing, or repairing equipment shall be entirely enclosed within a building. When any such building or portion of a building faces, abuts, or is adjacent to residentially zoned property, the closest, adjacent building wall or face shall consist of a solid wall with no openings other than those required by applicable building codes.
2. All minor repair work, vehicle washing, lubrication, and installation of parts and accessories shall be wholly performed within an enclosed building or structure.
3. All vehicle parts, dismantled vehicles, and similar materials, and all discarded materials such as tires, cans, and drums, shall be stored within an enclosed building, or shall be screened from view by complying with the requirements in § 6.2H.2: Buffer Area Landscaping Between Land Uses.
4. All vehicles awaiting repair shall be stored on site in approved parking spaces and under no circumstances shall such vehicles be stored on or obstruct access to a public right-of-way.

P. Light Equipment Sales/Rental.

1. In the CCBD, M-1, and M-2 districts, the lot area for outdoor sales must be provided with a concrete or asphalt surface and must be graded and drained to dispose of all water accumulated within the area. **[Amended 3-19-2007 by Ord. No. 1822; 6-6-2022 by Ord. No. 2049]**
2. Vehicle or equipment displays shall not be located within a required setback or buffer area, or on top of any building.
3. A suitable building of a permanent nature shall be erected, having at least 200 square feet of gross floor area, constructed of wood, masonry, or other approved building material, set on proper foundation; except that frame and all metal buildings less than 200 square feet of gross floor area may be erected as outlined in the Building Code.
4. Accessory service facilities shall be permitted as an accessory use; however, in the event of cessation of motor vehicle sales, said accessory uses may not continue except upon issuance of a permit for said uses as the principal use of the land.
5. If any portion of a storage lot accessory to a salesroom or sales lot for new or used motor vehicles is designed or used for the storage of inoperable vehicles, such use shall comply with all requirements of § 4.2.Y, Scrap and Salvage Operations, Storage of Inoperable Vehicles, and Recycling Facilities, and such use shall cease upon the termination of the salesroom or sales lot to which it is accessory. **[Amended 3-19-2007 by Ord. No. 1822]**
6. If any portion of a storage lot accessory to a salesroom or sales lot for new or used motor vehicles is designed or used for storage of commercial vehicles or semi-trucks, such portion of the storage lot shall be located a minimum of 25 feet from (a) any adjacent properties used for residential purposes, and (b) any property located across an alley and used for residential purposes.
7. The premises shall be screened by a six foot high opaque wall or fence along any lot boundary adjacent to, or across any alley from, land in a residential zone district, or from land in actual use for residential purposes. Any wall or fence erected shall meet the requirements of § 6.3: Screening and Fencing.
8. All such uses shall comply with all other applicable requirements of this code, including without

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limitation § 6.1H: Restrictions on Parking Areas in Nonresidential Districts, § 6.2: Landscaping and Open Spaces, § 6.3: Screening and Fences, § 6.4: Lighting, and § 6.6, Operational Performance Standards. § 4.2

Q. Multi-Unit Residential.

1. Generally Applicable Standards.

- a) Site Layout. To the greatest degree practicable, multifamily residential structures shall be located so that:
  - 1) Common open space amenities are located between buildings and are visible from residences within the development and from circulation routes within the development; and
  - 2) Garage doors, carports, and parking garages are not located between a multifamily building and a required street frontage, but are instead internalized within building groups so as not to be directly visible from the street frontage.
- b) Facades.
  - 1) Length. The length of any multifamily primary residential building shall not exceed 200 feet.
  - 2) Articulation of Townhouse Facades. No more than eight townhouse units may be attached in any single row or building group. Each group of attached adjacent townhouses shall be separated from the next group by a walkway leading from the street in front of the townhome or to an alley, public street, or common access area behind the group of townhouses. The facades of a primary structure containing townhouse units shall be articulated to differentiate the individual units.
  - 3) Articulation of Facades Other Than Townhouses. At least three of the following design features shall be provided for visual relief along all facades of each primary multifamily building; roof dormers; gables; recessed entries; covered porches; cupolas; pillars, pilasters or posts; bay windows (minimum twelve-inch projection); eaves (minimum six-inch projection) or a parapet wall with an articulated design (decorative cornice, etc.); multiple windows with minimum four-inch trim; or recesses/shadow lines.
  - 4) Four-Sided Design. A primary building's special architectural features and treatments shall not be limited to a single facade. All sides of a building open to view by the public, whether viewed from public or private property, shall display a similar level of quality and architectural interest.
  - 5) Windows. All elevations shall contain windows, and the area of such windows shall equal at least 20% of the total wall area on the facade where the windows are located.
  - 6) Materials. At least 50% of the surface of exterior walls, excluding areas for windows, doors, and other similar openings, shall be of brick, decorative precast, or a decorative masonry surface, concrete siding, or natural materials such as wood. **[Amended 3-19-2007 by Ord. No. 1822]**
- c) Roof Design.
  - 1) Rooflines longer than 100 horizontal feet shall include at least one vertical elevation change of at least two feet.
  - 2) All sloped roofs shall have a minimum slope of 4:12, and shall have overhanging eaves of at least one foot.

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- 3) Roofs of clay or concrete tiles, slate, Masonite, or heavy duty/hail resistant dimensional composition are preferred to convention asphalt (3-tab) roofs. All composition shingle roofing shall be constructed using high profile, textured shingles.
  - 4) Rooftop mechanical equipment and appurtenances shall be screened so that they are not visible from any location within 200 feet of the building when viewed from five feet above grade level. Screening enclosures shall be composed of one or more predominant materials used in the facades of the primary structure and one of the predominant colors used in the primary structure.
  - d) Garages and Carports.
    - 1) All accessory carport structures shall be constructed of materials compatible with the principal structure on the lot, and shall not be constructed from salvage doors, corrugated or sheet metal, vinyl, canvas, nondurable materials, or other prohibited materials as designated by the City.
    - 2) Detached garages and carports shall have pitched roofs with a minimum slope of 4:12.
    - 3) No more than six garage doors may appear on any multifamily primary building elevation containing entry doors. No more than four garage doors may be grouped together without an intervening wall surface of at least 20 linear feet (measured horizontally).
  - e) Sidewalks. Sidewalks at least four feet wide shall be required along all public streets adjacent to a development site. Required sidewalks shall be separated from the street by a curb lawn at least five feet wide; provided, however, that if the predominant width of existing curb lawns on adjacent blocks is less than five feet, then curb lawns along the proposed development may match that predominant width.
  - f) Walkways. Every primary residential structure shall have a paved walkway at least four feet wide connecting the primary building entrance (in most cases the front door) to the sidewalk system or parking area. In the case of multifamily or attached dwellings, a common walkway may be used to satisfy this requirement so long as it provides a direct and convenient route to every residence served.
2. Additional Standards for the RM-15C District. The following standards shall apply to multifamily development in the RM-15C district. In the event of any inconsistency between these standards and other standards in § 4.2.Q: Multi-Unit Residential, these standards shall govern.
- a) At least 50% or more of front and side exteriors (excluding the area of doors or windows) must be comprised of natural brick, stone, wood siding, decorative pre-cast, decorative masonry, or other natural materials (excluding plywood or concrete block).
  - b) For every two dwelling units the building is wide, the roof line must be distinct through either a separation of roof pitches (minimum difference of at least 5°), a difference in roof direction, a difference in roof height (minimum of two vertical feet), or a combination of methods.
  - c) For every two dwelling units the building is wide, the front facade must be distinct through either the use of different facade materials, staggered building lines (minimum of two feet), an identifiable permanent architectural design element such as a chimney, pilaster or column (excluding gutter spouts or siding trim), or a combination of methods.
  - d) For all dwelling facades that face streets, all windows shall contain shutters on each side or other decorative window features. **[Added 3-19-2007 by Ord. No. 1822]**
3. Additional Requirements for CMU, CN-1, CO, and CN-2 Districts. Dwelling units are allowed in the



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CMU, CN-1, CO, and CN-2 districts only when part of a mixed-use project and only when located above the ground floor of buildings containing retail or other commercial floor space on the ground floor. **[Amended 6-6-2022 by Ord. No. 2049]**

4. Multifamily Dwelling Design Standards.

a) Application. The standards set forth in § 6.5.A shall apply to all construction of multifamily dwellings (a) in any zone district where such multifamily dwellings are a permitted or special use, and (b) in all PUD-O Districts where multifamily dwellings are permitted, unless explicitly modified by the terms of the PUD-O zone district or related plans approved by the City. In addition, such developments shall comply with all other applicable requirements of this Ordinance.

b) (Reserved)<sup>198</sup>

c) (Reserved)<sup>199</sup>

d) Off-Street Parking Requirements. In addition to complying with the off-street parking requirements in § 6.1: Off-Street Parking and Loading, all driveways, service areas and open parking areas abutting property located in an RS-4, RS-5, RS-7, RD-8, or RD-19 zone district shall not be located closer than 10 feet to any property line except where driveways enter or exit the site, nor closer than five feet to any property line for abutting properties in any other zoning district. **[Amended 3-19-2007 by Ord. No. 1822]**

e) Utilities. All public utilities shall be placed underground.

f) Accessory Structures and Uses. Only the following types of accessory structures shall be permitted in connection with a multifamily residential development, and all permitted accessory structures shall meet the standards set forth in Subsection b) below.

1) Permitted accessory structures and uses:

(a) Community buildings;

(b) Pools;

(c) Tennis courts;

(d) Garages and carports;

(e) Storage structures; and

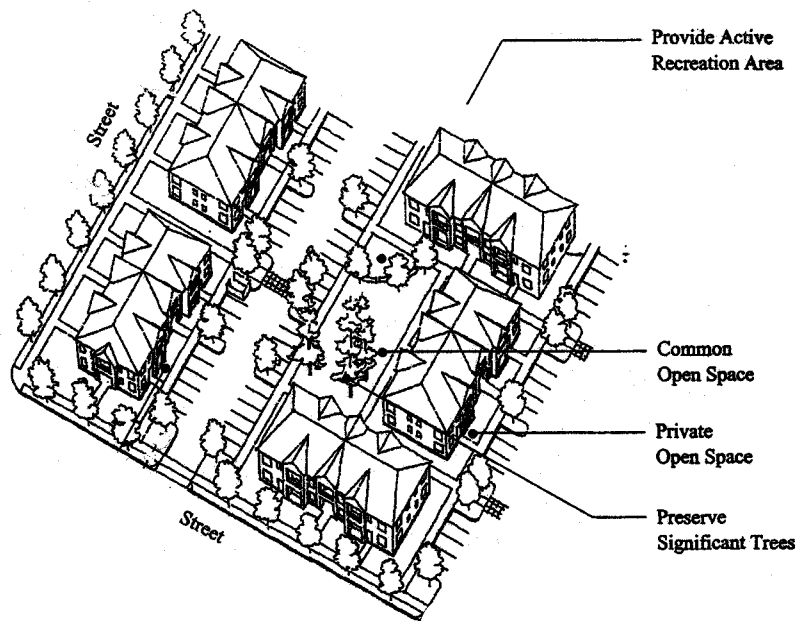
(f) Similar recreational and accessory structures and uses.

2) Height and Location. Accessory buildings shall not exceed 16 feet in height. Accessory structures and uses, except garages and carports, shall be located at least 25 feet from all property lines that abut property in an RS-4, RS-5, RS-7, RD-8, or RD-19 zone district. Where a property line abuts property located in any zone district other than those listed in the preceding sentence, garages and carports may be located three feet from the property line. A carport must have a wall at least four feet high on the side facing the property line if it is located within 10 feet of the property line where the property line abuts property located in an RS-4, RS-5, RS-7, RD-8, or RD-19 zone district. Garages and carport walls shall be considered as providing the required screening. Garages and carports shall not exceed 112

198. Editor's Note: Former Subsection Q4(b), Distance and Height Requirements, as amended 3-19-2007 by Ord. No. 1822, was repealed 1-29-2019 by Ord. No. 1978.

199. Editor's Note: Former Subsection Q4(c), Impermeable Space Limitation, as amended 3-19-2007 by Ord. No. 1822, was repealed 1-29-2019 by Ord. No. 1978.

feet in length.



**Figure 4-3: Multifamily Site Design**

**R. Parking, Commercial.**

1. Commercial parking lots are limited to the parking of operable private passenger vehicles. All such vehicles shall bear current and valid license plates.
2. No parking lot or parking area may be used as a towing service storage yard.
3. Commercial parking lots shall not be used as sites for vending of any kind.
4. Commercial parking lots shall comply with all standards and requirements applicable to accessory parking lots, as set forth in § 6.1: Off-Street Parking and Loading, except for the requirements of Subsection C: Minimum Amounts of Off-Street Parking Required and Subsection G: Location of Parking Facilities.
5. Commercial parking lots shall comply with all requirements of § 6.2 Landscaping and Open Space, applicable to parking areas.

**S. Retail Sales and Services (Indoor).**

1. CMU and CN-1 Districts. In the CMU and CN-1 districts, the gross floor area of retail sales and services (indoor) may not exceed 3,500 square feet.
2. RD-8, RD-19, RM-15, RM-15C, RM-24, RM-36, and CN-O Districts. In the RD-8, RD-19, RM-15, RM-15C, RM-24, RM-36, and CN-O districts, retail sales (a) shall only be permitted in structures that are more than 50 years old and that contain more than 3,500 square feet of gross floor area, and (b) shall be limited to sales of finished pieces of art or crafts.

**T. Retail Sales and Services (Outdoor).**

1. Retail sales and services (outdoor) shall be located on the same private property containing the primary use unless an encroachment permit has been obtained from the City to allow use of public right-of-way.

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2. In the R districts, outdoor cafes shall not operate after 9:00 p.m.
  3. In the R districts, outdoor sales of items, including but not limited to fruits, flowers, and vegetables raised on the property, shall be limited to no more than 10% or 500 square feet of the front yard area of the property, whichever is less. **[Added 3-19-2007 by Ord. No. 1822]**
- U. Roominghouse/Boardinghouse. In CN-1, CO, CN-2, and CCBBD districts, roominghouses and boardinghouses must be located at least 1,500 feet from any other roominghouse or boardinghouse with seven or more residents. Any facility required to be licensed by the State of Michigan shall have a valid license at all times, and it shall be a violation of this Code to operate at any time without a valid license. **[Amended 3-19-2007 by Ord. No. 1822; 6-6-2022 by Ord. No. 2049]**
- V. Tearoom/Cafe. In the RD-8, RD-19, RM-15, RM-15C, RM-24, RM-36, and CN-O districts, tearooms and cafes (a) shall only be permitted in structures that are more than 50 years old and that contain more than 3,500 square feet of gross floor area, and (b) shall be limited to a maximum of 10 tables for customer use, and (c) shall only operate between the hours of 10:00 am and 9:00 pm. Outdoor seating shall not continue past 9:00 p.m.
- W. Telecommunications Facilities.
1. Purpose. The purpose of these regulations is to regulate the placement, construction, and modification of transmission towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in Kalamazoo. The specific purposes are as follows:
    - a) To regulate the location of transmission towers and telecommunications facilities in the City;
    - b) To protect residential areas and land uses from potential adverse impact of transmission towers and telecommunications facilities;
    - c) To minimize adverse visual impact of transmission towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
    - d) To promote and encourage shared use/collocation of transmission towers and antenna support structures as a primary option rather than construction of additional single-use transmission towers;
    - e) To avoid potential damage to property caused by transmission towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or determined to be structurally unsound; and
    - f) To ensure that transmission towers and telecommunications facilities are compatible with surrounding land uses.
    - g) Nothing in this section applies to amateur radio antennas, or facilities, used exclusively for the transmission of television or radio signals.
  2. Siting; Permitted and Special Uses. No telecommunication facility or transmission tower may be constructed, modified to increase its height, installed or otherwise located within the City except as provided in this section. Depending on the type and location of the telecommunication facility, the telecommunication facility will be either a permitted use, subject to building review procedures, or a special use.
    - a) No special use permit is required for a telecommunication facility or transmission tower that is allowed as a permitted use pursuant to § 4.2W.3: Collocation on Existing Towers, § 4.2W.4: Collocation on Other Structures, and § 4.2W.5: Construction of New Transmission Towers. Such

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telecommunication facilities will require site plan review and any permits required by the Kalamazoo City Code. § 4.2

- b) A telecommunication facility or transmission tower that, pursuant to § 4.2W.3: Collocation on Existing Towers, § 4.2W.4: Collocation on Other Structures, and § 4.2W.5: Construction of New Transmission Towers, requires a special use permit, must be processed in accordance with § 8.3D: Special Use Permit and in accordance with established administrative policies, including review by appropriate City of Kalamazoo advisory boards. No permits may be issued prior to completion of the special use permit and site plan process, including any appeals.
3. Collocation on Existing Towers.
- a) Collocation of an additional antenna on an existing transmission tower will be considered a permitted use in any M-1, M-2, CCBBD, CO, CBTR, CN-1, CN-2, CMU, P or IC district, or if the transmission tower is in any other zoning district, and the City specifically approved, as part of a special use permit process authorizing the transmission tower, collocation of additional antennas. **[Amended 6-6-2022 by Ord. No. 2049]**
  - b) Collocation of an additional antenna on an existing transmission tower requires a special use permit in any RS, RD, RM, RMU, RMHP or CNO district if approval for collocation was not granted through a prior special use permit process.
4. Collocation on Other Structures.
- a) In addition to collocation on an existing transmission tower, an antenna may be collocated on existing buildings, light poles, utility poles, and water towers.
  - b) Such collocation on a building, light pole, utility pole, or water tower, will be considered a permitted use provided that the antennas and ancillary facilities comply with all applicable building codes, the color of the antennas blends in with the existing structure and surroundings, the antennas do not exceed the height limitation of the zoning district, and the property is located in any M-1, M-2, CCBBD, CO, CBTR, CN-1, CN-2, CNU, P or IC district. **[Amended 6-6-2022 by Ord. No. 2049]**
  - c) Such collocation on a building, light pole, utility pole, or water tower requires a special use permit in any RS, RD, RM, RMU, RMHP, or CNO district. Said antenna(s) may not exceed the building height allowed in the district, or 18 feet above the structure, whichever is less. Said antenna(s) may project no more than two feet away from the existing structure, and the color of the antenna(s) must blend in with the existing structure and surroundings.
5. Construction of New Transmission Towers. Construction of a transmission tower or a modification of an existing transmission tower to increase its height will be allowed as follows:
- a) Such construction or modification is considered a permitted use in M-1 and M-2.
  - b) Such construction requires a special use permit in any CCBBD, CO, CN-1, CN-2, CMU, P or IC district. Such construction also requires a special use permit in any RS, RD, RM, RMHP, CNO or IC district, but only in the following locations: **[Amended 6-6-2022 by Ord. No. 2049]**
    - 1) Religious assembly, but only when designed as a steeple, bell tower, or similar accessory structure compatible with the principal use on the property.
    - 2) Parks.
    - 3) Government, public utility, or public school sites.
  - c) Such construction shall be prohibited in the CBTR district.

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- d) Any new transmission tower must be built, constructed, or erected with the capability of supporting a minimum of two other telecommunication facilities, comparable in weight, size, and surface area to the applicant's facilities, pursuant to § 4.2W.7.c: Standards for Transmission Towers and Antennas.
6. Application Requirements. Application requirements shall be set forth by the City Planner and may be modified from time to time as necessary. If a special use permit is required, the application requirements shall also include all materials required for a special use permit pursuant to § 8.3D: Special Use Permit.
7. Standards for Transmission Towers and Antennas. Installation, construction or modification of all transmission towers and antennas must comply with the following standards, unless a waiver is obtained pursuant to the provisions of § 4.2W.9: Waiver.
- a) No transmission tower may be constructed within one-mile of any existing transmission tower. Tower separation must be measured by following a straight line from the portion of the base of the proposed transmission tower that is closest to the base of any preexisting transmission tower. For purposes of this paragraph, an existing tower includes any transmission tower for which the City has issued a building permit, or for which an application has been filed and not denied. Transmission towers constructed or approved prior to August 1, 1997, may be modified to accommodate additional providers consistent with provisions for collocation in this section.
- b) Transmission tower and antenna heights are governed by this section except as provided for below:
- 1) If located within any M-1 or M-2 district, the height limitation for that zoning district applies.
  - 2) If located within any CO, CN-1, CN-2, CMU, P or IC district, the maximum height of a transmission tower, including antennas, is 100 feet, unless a waiver is granted pursuant to the provisions of § 4.2W.9: Waiver. **[Amended 6-6-2022 by Ord. No. 2049]**
  - 3) If located within any RS, RD, RM, RMHP, RMU, CNO or IC district, the maximum height of a transmission tower, including antennas, is 75 feet, unless a waiver is granted pursuant to the provisions of § 4.2W.9: Waiver.
- c) New transmission towers must be designed to accommodate collocation of additional providers:
- 1) New transmission towers of a height of 100 feet or more must be designed to accommodate collocation of a minimum of two additional providers either outright or through future modification to the transmission tower.
  - 2) New transmission towers of a height of at least 60 feet and no more than 100 feet must be designed to accommodate collocation of a minimum of one additional provider either outright or through future modification to the transmission tower.
- d) The following setbacks from adjacent property lines and adjacent streets are required unless a waiver is granted pursuant to the provisions of § 4.2W.9: Waiver:
- 1) If located within any RS, RD, RM, RMHP, RMU, CNO or IC district, the transmission tower must be set back from adjacent property lines a minimum number of feet that is equal to the height of the transmission tower.
  - 2) If the transmission tower is located on a parcel in any nonresidential zoning district that abuts residentially zoned property, the transmission tower must be set back from the adjacent residentially zoned property line a minimum number of feet that is equal to the height of the transmission tower.
  - 3) In any RS, RD, RM, RMHP, RMU, CNO or IC district, transmission towers must be set back

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from adjacent public streets a minimum number of feet that is equal to the height of the transmission tower. In all other zoning districts, the setback from adjacent public streets must be a minimum of 25 feet. § 4.2

- e) In all zoning districts, existing vegetation must be preserved to the maximum extent possible. In all zoning districts, landscaping must be placed completely around the transmission tower and ancillary facilities located at ground level except as required to access the facility. Such landscaping must consist of evergreen vegetation with a minimum planted height of six feet placed densely so as to form a screen. Landscaping must be compatible with other nearby landscaping and must be kept healthy and well maintained. Landscaping must be installed on the outside of any fencing.
  - f) In any CN-1, CN-2, RS, RD, RM, RMHP, RMU, or CNO district and in all other zoning districts when the adjacent property is zoned residentially or occupied by a dwelling, hospital, school, library, or nursing home, noise generating equipment must be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to 45 dBa. In all other locations, noise must be regulated by applicable City ordinances.
  - g) Transmission towers may not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses located within a distance that is 300% of the height of the transmission tower from the transmission tower, and when required by federal law, dual mode lighting must be requested from the FAA.
  - h) The transmission tower and attached antennas must be unpainted galvanized steel or painted neutral colors or such shades as are appropriate and compatible with the surrounding environment, as approved by the City.
  - i) No signs, striping, graphics or other attention getting devices are permitted on the transmission tower or ancillary facilities except for warning and safety signage with a surface area of no more than three square feet. Such signage must be affixed to a fence or ancillary facility and the number of signs is limited to no more than two.
8. Standards for Ancillary Facilities to a Transmission Tower. All ancillary facilities must comply with the standards of Subsections (e) and (f) of § 4.2W.7: Standards for Transmission Towers and Antennas. In addition, all ancillary facilities within any RS, RD, RM, CNO or IC district must be located underground to the maximum extent technology allows, unless a waiver is obtained pursuant to the provisions of § 4.2W.9: Waiver. This underground restriction does not apply within other zoning districts.
9. Waiver.
- a) Any waiver to the requirements of this section may be granted only pursuant to the following provisions. The criteria for granting a waiver are as set forth in this section only, and may not include the criteria in § 8.3D: Special Use Permit.
  - b) The City may grant a waiver from the provisions of § 4.2W.7: Standards for Transmission Towers and Antennas, provided the applicant demonstrates that:
    - 1) It is technologically impossible to locate the proposed transmission tower on available sites more than one-mile from a preexisting transmission tower and still provide the approximate coverage the transmission tower is intended to provide;
    - 2) The preexisting transmission tower that is within one mile of the proposed transmission tower cannot be modified to accommodate another provider; and
    - 3) There are no available buildings, light or utility poles, or water towers on which antennas may be located and still provide the approximate coverage the transmission tower is intended

to provide.

- 4) The City may grant a waiver to the setback and undergrounding requirements of Subsection (d) of § 4.2W.7: Standards for Transmission Towers and Antennas or § 4.2.W8: Standards for Ancillary Facilities to a Transmission Tower, upon finding that stealth design, proposed landscaping, configuration of the site, or the presence of mature trees obviates the need for compliance.
- 5) The City may grant a waiver to the one-hundred-foot height limitation in any CO, CN-2, CN-1, or CMU district, or to the seventy-five-foot height limitation in any RS, RD, RM, RMU, CNO, or IC district if the applicant shows, through written documentation provided by an engineer, that the proposed height is the minimum height needed to meet service needs and to accommodate future collocations per Subsection (c) of § 4.2W.7: Standards for Transmission Towers and Antennas. **[Amended 6-6-2022 by Ord. No. 2049]**
- 6) If the proposed transmission tower, ancillary facility or other telecommunication facilities require a special use permit, the request for waiver must be considered as part of the special use permit process. If the proposed transmission tower, ancillary facility or other telecommunication facilities are a permitted use, the request for a waiver must be decided by the City Planner and must be based on the criteria in this section.

#### 10. Removal of Facilities.

- a) All transmission towers, antennas, transmission tower substructures and ancillary facilities must be removed within six months of the time that the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communication devices. The owner and operator of the tower, antenna, substructure or facility and the real property owner upon which the tower, antenna, substructure or facility is located are responsible for removing such facilities. The site must be restored with appropriate landscaping to its pre-transmission tower appearance. The City Planner may grant one six-month extension where a written request has been filed, within the initial six month period, to reuse the transmission tower or antennas.
- b) The City may require the posting of an open-ended bond or accept some other performance guarantee suitable to the City before building permit issuance to insure removal of the transmission tower, substructure or antennas after the facility no longer is being used.

11. Fees. Notwithstanding any other provision of this code, the City Planner may require, as part of application fees for building or special use permits for telecommunication facilities, an amount sufficient to recover all of the City's costs in retaining consultants to verify statements made in conjunction with the permit application, to the extent that verification requires telecommunications expertise. This amount of this fee shall be set by City Commission resolution.

X. Transitional Residence. In the CN-2 and CCBBD districts, transitional residences must be located at least 1,500 feet from any other transitional residence, adult foster-care group home, and any other adult foster-care facility with seven or more residents. Any facility required to be licensed by the State of Michigan shall have a valid license at all times, and it shall be a violation of this Code to operate at any time without a valid license. **[Amended 6-6-2022 by Ord. No. 2049]**

Y. Scrap and Salvage Operations, Storage of Inoperable Vehicles, and Recycling Facilities. Wrecking and towing services, scrap and salvage yards and storage areas for one or more impounded, damaged or inoperable vehicles (whether licensed or unlicensed) for a period of more than 24 hours, and recycling facilities, must comply with the following standards: **[Amended 3-19-2007 by Ord. No. 1822]**

1. The development must contain a minimum of two acres.
2. The use must be completely screened from view of public rights-of-way and adjacent properties by a

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vertical wall or fence (and associated gates and doors) with a uniform height of no less than eight feet and a maximum height of not more than 12 feet. The wall or fence must be plumbed vertically and squared and constructed of masonry material with natural or painted finish, wood with appropriate finish for species use; plywood of a type and texture customarily used as exterior building siding protected from weathering; corrugated or channeled metal with a field or factory applied finish approved by the finish manufacturer for exterior use on the specific metal of the panel. The wall or fence must resist the exterior wall wind loads prescribed in Chapter 9, Building Regulations, Code of Ordinances of Kalamazoo. Verification of the wind load resistance must be provided by a Michigan registered architect or engineer. Gates must be constructed of materials as prescribed for the nonmasonry walls or fences. Gates must be supported so as to maintain level and plumb when closed.

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3. Walls or fences and gates and doors must be repaired, maintained and kept in good condition (free of chips, scratches, peeling and graffiti) and set back a minimum of six feet from property lines abutting public rights-of-way. Gates and doors may not extend into the public right-of-way and must be closed when the facility is not in use or operation. The area outside of the walls or fences, on the property of the establishment, must be covered with grass or ground cover and kept in reasonable and safe condition.
4. Notwithstanding the other standards and requirements of this section, wrecking and towing services, scrap and salvage yards and storage areas in existence on November 18, 1996:
  - a) That are less than two acres in area do not need to acquire additional area.
  - b) That have any walls or fences that are in full compliance with the standards in this subsection, but that are not set back a minimum of six feet from the property line, are not required to comply until they are replaced or substantially repaired.

Z. Wind Energy Units. [Added 9-20-2010 by Ord. No. 1872]

1. General.
  - a) Building-mounted wind energy units shall be permitted in all zoning districts. Approval of a site plan is required for such units, except in the RS and RD zones.
  - b) Small, freestanding wind energy units that are not the primary use on a parcel shall be permitted in all zoning districts except the CCBD zone. Approval of a site plan is required for such units, except in the RS and RD zones.
  - c) Large and multiple freestanding wind energy units that are not the primary use on a parcel shall be permitted in all zoning districts except the RS, RD, and CCBD zones. Approval of a site plan is required for such units.
  - d) Freestanding wind energy units that are the primary use on a parcel shall be permitted in all zoning districts except the RS, RD, and CCBD zones, but a special use permit is required from the Planning Commission. Approval of a site plan is also required for such units.
  - e) In all zoning districts, freestanding wind energy units shall be set back from all property lines a distance equal to at least the height of the unit as measured from the ground level to the top of the monopole or rotor blade in the vertical position, whichever is higher.
2. Height and Location of Equipment.
  - a) Building-mounted wind energy units shall not exceed 10 feet in height above the highest portion of the roofline for buildings in the RS and RD zoning districts, and shall not exceed 20 feet in height above the highest portion of the roofline for buildings in all other zoning districts.
  - b) A maximum of one, building-mounted wind energy unit is allowed for every 900 square feet of the



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footprint for each building on a parcel.

- c) Building-mounted wind energy units shall be placed on top of the building roof or attached to the side or rear of the building. Such units shall not be mounted on any building wall that faces a public street. No portion of the structure or blades of a wind energy unit shall project over the property lines of the parcel.
  - d) Small, freestanding wind energy units shall not exceed 60 feet in height as measured from the ground level to the top of the monopole or rotor blade in the vertical position, whichever is higher.
  - e) Large, freestanding wind energy units shall not exceed 200 feet in height as measured from the ground level to the top of the monopole or rotor blade in the vertical position, whichever is higher.
  - f) A maximum of one, freestanding wind energy unit is allowed for each parcel containing one acre or less, and a maximum of one, freestanding wind energy unit is allowed for each acre for parcels containing more than one acre.
  - g) Freestanding wind energy units on a parcel must be separated from each other by a distance equal to at least three times the maximum diameter of the blade rotation space of the unit or 100 feet, whichever is greater.
  - h) The minimum distance between the ground level and the tip of the rotor blade in the downward vertical position for freestanding wind energy units shall be 20 feet.
  - i) Freestanding wind energy units shall only be allowed in side and rear yards, and not within building setbacks. They shall not be allowed in front yards or front setbacks.
3. Design and Operation.
- a) Freestanding wind energy units shall be monopole or tubular design only. They shall have nonreflective surfaces. Lattice-type units or units with guy wires are not permitted.
  - b) Building-mounted and freestanding wind energy units shall not contain lettering, advertisements, or commercial graphics. Information regarding the manufacturer and/or emergency contacts may be placed on the unit within a maximum one-square-foot area. Exterior lighting shall not be allowed except as required by the FAA.
  - c) Braking/feathering systems are required for all wind energy units to prevent high and potentially dangerous levels of rotation.
  - d) Electrical wiring between freestanding wind energy units and electrical storage or transfer equipment shall be placed underground when feasible.
  - e) Operation of all wind energy units shall comply with the City's noise and nuisance ordinance standards. All wind energy units shall be installed and shall operate such that no flicker effects occur on adjacent building windows or doors, roads, or public/private occupied areas. The City Planner may require a flicker effect study be completed for a proposed wind energy unit if deemed necessary.
  - f) A visual analysis shall be provided for all wind energy units that require site plan review. Such analyses shall show depictions of the proposed unit from four different vantage points, and shall be included as part of the site plan review process.
  - g) For all wind energy units, a written statement shall be submitted to the City indicating that the unit will not interfere with the local police/fire communications, or television/radio/cellular phone signaling.

- § 4.2 4. Decommission Plan. A decommission plan is required for all freestanding wind energy units detailing the equipment removal process when the unit is no longer used. The equipment shall be removed within six (6) months of cessation of operation, unless an extension is granted by the City Planner. Such plans are required at the time of site plan review or building permit submittal. § 4.3
5. Fees for review. The standard permit and review fees shall be applied to wind energy unit projects as applicable.<sup>200</sup>

### § 4.3. Accessory and Temporary Uses and Structures.

The standards of this section apply to all accessory and temporary uses and structures unless otherwise expressly stated.

- A. Purpose. This section regulates uses and structures that are incidental to principal uses and buildings to prevent them from becoming the predominant element of the site. The standards provide for necessary access around structures, help maintain privacy to abutting lots, and maintain open front setbacks.
- B. General Standards.
1. Subordinate to Principal Use. Accessory uses and structures must be subordinate to the principal use and structure on the subject lot in terms of area, extent and purpose.
  2. Time of Establishment and Removal. Accessory structures must be constructed in conjunction with or after the principal building. They may not be built prior to the construction of the principal structure. No accessory use or structure may continue in use or operation after the principal primary structure or principal to which it is accessory has been removed or ceased operation, unless the accessory use is also listed as a permitted use in the zone district.
  3. Compliance with District Standards. Unless otherwise expressly stated, the setback, height, and building coverage standards of the underlying district apply to both principal and accessory structures.
- C. Building Coverage.
1. The combined footprint of all detached covered accessory buildings may not exceed 20% of the total area of the lot, unless a larger lot coverage is specifically permitted by another provision of this Ordinance.
  2. A detached accessory building may not have a larger building footprint than the building footprint of the principal structure.
- D. Location in Required Setbacks.
1. Accessory structures not more than 16 feet in height may be located in required rear setbacks if they do not occupy more than 33% of the actual rear yard area and are located at least three feet from any lot line. Preexisting, detached, conforming accessory structures located in rear yards shall not become nonconforming if the primary structure on the site is expanded causing any portion of the accessory structure to be in the side yard. **[Amended 3-19-2007 by Ord. No. 1822]**
  2. Trellises that provide entry into a property may be located in required front yard setbacks if they are no more than eight feet tall, eight feet wide, and eight feet deep, are not located in the public right-of-way, do not obscure or block vehicular traffic lines of sight, do not impede or block pedestrian circulation, and do not hinder access to the property by emergency services and equipment. One such trellis is allowed per pedestrian entrance into a property. When required by the Building Official, a building

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200. Editor's Note: Former Subsection AA, Marihuana Facilities, added 4-2-2018 by Ord. No. 1957, as amended, which immediately followed this subsection, was repealed 5-18-2020 by Ord. No. 2007.

- § 4.3 permit shall be obtained prior to the erection of a trellis. **[Amended 3-19-2007 by Ord. No. 1822]** § 4.3
3. Mechanical structures, such as heat pumps, air conditioners, emergency generators, and water pumps are not allowed in required front setbacks, but may be located in rear or side setbacks if located at least three feet from rear and side lot lines.
  4. No ornamental or other lawn feature, including but not limited to statues, figurines, decorations, art objects, animal shelters, containers, or other similar items, over 2 1/2 feet in height shall be installed or maintained within 25 feet of any public street, or within any triangular area defined by the following three types of points: **[Amended 3-19-2007 by Ord. No. 1822]**
    - a) Point 1: The point of intersection of intersection of any public street with (i) any other public street, or (ii) any railroad right-of-way with an at-grade crossing, or (iii) any private driveway (other than a driveway for a single- or two-family residential structure);
    - b) Point 2: A point along the side right-of-way line of the first public street located 25 feet away from the point of intersection; and
    - c) Point 3: A point along the side line of second public street, or the railroad right-of-way, or the private driveway, located 25 feet away from the point of intersection.
  - E. Height of Accessory Buildings. Unless otherwise expressly stated, no accessory building in a residential district may exceed 16 feet in height. In a nonresidential district, no accessory building may exceed the height of the principal building on the same lot.
  - F. Setbacks. Unless otherwise expressly stated, accessory structures may not be located in the front yard. Detached garages and carports can be located in front yards but not in required front yard setbacks.
  - G. Home Occupations.
    1. General. Some types of work can be conducted at home with little or no effect on the surrounding neighborhood. The home occupation regulations of this subsection are intended to permit residents to engage in customary home occupations, while ensuring that such home occupations will not be a detriment to the character and livability of the surrounding area. The regulations require that home occupations (an accessory use) remain subordinate to the allowed principal use (residential) and that the residential viability of the dwelling unit is maintained.
    2. Allowed uses. The home occupation regulations of this subsection establish performance standards rather than detailed lists of allowed home occupations. Except as otherwise provided in this subsection, businesses located in a residential dwelling that comply with all of the standards of this subsection will be allowed as home occupations unless they are specifically prohibited. The home occupation must be clearly subordinate and incidental to the use of the dwelling as a residence. **[Amended 9-20-2010 by Ord. No. 1873]**
    3. Where Allowed. Home occupations that comply with the regulations of this section will be allowed as an accessory use to any allowed residential use.
    4. Size. A home occupation may not occupy more than 25% of the floor area of the principal dwelling unit.
    5. Prohibited Uses.
      - a) Vehicle and Large Equipment Storage/Repair. Any type of repair, assembly or storage of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain, saws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to motor vehicles and their parts is prohibited as a home occupation.

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- b) Dispatch Centers. Dispatch centers, where employees come to the site to be dispatched to other locations, are not allowed as home occupations.
  - c) Animal Boarding Facilities. Animal boarding facilities are not allowed as home occupations. This includes kennels, commercial stables and all other types of animal boarding facilities.
  - d) Restaurants. All types of restaurants are prohibited as home occupations.
  - e) Firearms. All uses involving the distribution of firearms or the storage of firearms intended for sale or distribution are prohibited as home occupations.
  - f) Barber and Beauty Shops. All types of barber and beauty shops are prohibited as home occupations.
6. Resident-Operator. The operator of a home occupation must be a full-time resident of the subject dwelling unit and be on the premises during the hours of operation of the home occupation.
  7. Employees. A maximum of one nonresident employee may be on the premises at any one time. For the purpose of this provision, the term "nonresident employee" includes an employee, business partner, co-owner, or other person affiliated with the home occupation, who does not live at the site, but who visits the site as part of the home occupation.
  8. Signs. No more than one nameplate sign with a maximum size of one square foot is allowed. Such sign must be attached to the building and may not be illuminated.
  9. Location. All work areas and activities associated with home occupations must be conducted and located inside the principal dwelling unit, and not on the ground floor in accessory buildings or garages, whether attached or detached.
  10. Exterior Appearance. There may be no visible evidence of the conduct of a home occupation (other than an allowed sign) when viewed from the street right-of-way or from an adjacent lot. There may be no change in the exterior appearance of the dwelling unit that houses a home occupation or the site upon which it is conducted that will make the dwelling appear less residential in nature or function. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting.
  11. Operational Impacts. No home occupation or equipment used in conjunction with a home occupation may cause odor, vibration, noise, electrical interference or fluctuation in voltage that is perceptible beyond the lot line of the lot upon which the home occupation is conducted. No hazardous substances may be used or stored in conjunction with a home occupation.
  12. Retail Sales and Display. No stock in-trade may be stored or sold upon the premises, other than those produced on the premises.
  13. Customers. Customers or clients may visit the site only during the hours of 8:00 a.m. to 8:00 p.m. No more than eight customers or clients may visit the site in any single day, and no more than two customers or clients shall be on the premises at any one time. **[Amended 9-20-2010 by Ord. No. 1873]**
  14. Deliveries. Deliveries or pickups of supplies or products associated with Home Occupations are allowed only between 8:00 a.m. and 8:00 p.m. Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods. Tractor-trailers are expressly prohibited.
  15. Other Codes. All Building, Housing, Fire, and other local or state codes and ordinances shall be adhered to for home occupations.<sup>201</sup> **[Added 9-20-2010 by Ord. No. 1873]**

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201. Editor's Note: Former Subsection G.16, Medical Marihuana, added 9-20-2010 by Ord. No. 1873, as amended, which immediately followed this subsection, was repealed 5-18-2020 by Ord. No. 2007.

## H. Accessory Dwelling Units. [Reserved]

I. Accessory Residential Swimming Pools. Accessory residential swimming pools are accessory structures that must meet the following additional standards. In the event of a conflict between any of the provisions below and any other provision of this Ordinance, the provisions below shall govern:

1. No accessory residential swimming pool shall cover more than 50% of any required side or rear yard area. No accessory swimming pool shall be located in any portion of a required front yard area.
2. Required swimming pool fences shall meet all applicable requirements of the building code, and may be combined with any other fence permitted in a side or rear yard area (e.g. a perimeter fence) meeting all applicable requirements of this Ordinance.

## J. Temporary Sales and Service (Outdoor).

1. Outdoor temporary sales or service uses are permitted only in the C districts, the M districts, the P district, the IC districts, or on a property containing a permitted primary nonresidential use in an R zone district.
2. No outdoor temporary sales or service use may operate on a commercial parking lot (i.e., a parking lot on a property on which there is no other permitted primary use).
3. Except in the CCBD district, each temporary outdoor sales or service use shall be accessory to a permitted primary use on the property. Sales of merchandise or provision of services unrelated to such permitted primary use is not permitted, except as follows. **[Amended 6-6-2022 by Ord. No. 2049]**
  - a) Any permitted primary use may permit a grill or outdoor food stand to operate on the property.
  - b) Any permitted primary use may permit an outdoor temporary sales or service use operated by, or in support of, or as a fund-raiser for, a nonprofit institution.
4. No outdoor temporary sales or service use shall be located in the public right-of-way or on public property unless an encroachment permit has been obtained from the City.
5. Outdoor temporary sales or service uses may only operate after obtaining a temporary use permit pursuant to § 8.3J: Temporary Use Permit.
6. Each operator of a temporary sales or service use shall obtain a license or permit from the City Clerk, as applicable.
7. No property shall have outdoor temporary sales or services uses operating on the property for more than 30 days in any calendar year.
8. The property on which an outdoor temporary sales or service use operates shall be kept clean and sanitary condition at all times, and all litter and trash shall be removed at the end of each day.
9. If the outdoor temporary sales or service use involves a vending cart or a motorized vehicle, such cart or vehicle shall be stored in a permanent structure whenever the use is not in operation.
10. The location of the outdoor temporary sales or service activity shall allow customers to drive into an existing off-street parking area. No temporary outdoor sales may interrupt the flow of traffic on public streets or access ways into a shopping area.
11. No outdoor sales or service use may operate from a tent without prior approval from the Kalamazoo Public Safety Department.
12. The area occupied by the outdoor temporary sales and service activity, plus any required area for emergency vehicle access, shall occupy no more than 20% of any required off-street parking spaces or

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area. In no event shall any such area occupied by the outdoor temporary sales or service use be greater than 7,500 square feet. In all cases, the applicant shall demonstrate that there will be adequate parking for the existing structures as well as the temporary outdoor sales. § 4.3

13. All trucks, carts, motorized vehicles, or tents and associated parking shall be located on asphaltic, concrete, or equivalent surface unless the applicant demonstrates no adverse effect on drainage, access, or the intent of this Ordinance, as determined by the City Planner.
14. In the R districts, outdoor temporary sales and service uses shall not operate after 8:00 p.m. or before 8:00 a.m.
15. Any applicant who possesses a valid permit in accordance with the requirements of this § 4.3J, and while currently engaged in temporary sales operations, may display one portable sign not to exceed eight square feet in area on one surface and not to exceed six feet in height at the location. Such sign shall be placed behind the applicable building setbacks or a minimum of four feet from the property line, which ever is greater. An approved temporary use permit for temporary outdoor sales activity shall also serve as a sign permit for the sign permitted by this subsection.

**CHAPTER 5**  
**Density/Intensity/Dimensional Standards**

**§ 5.1. Residential District Standards.**

All development in the residential districts must comply with the standards in the following table unless otherwise expressly stated, or unless a different standard is required by an applicable overlay district.

<b>Table 5.1-1 Residential District Standards</b> [Amended 3-19-2007 by Ord. No. 1822; 1-29-2019 by Ord. No. 1978]										
<b>Standards</b>	<b>RS-4</b>	<b>RS-5</b>	<b>RS-7</b>	<b>RD-8</b>	<b>RD-19</b>	<b>RM-15</b>	<b>RM-15C</b>	<b>RM-24</b>	<b>RM-36</b>	<b>RMU</b>
<b>Minimum Lot Size</b>										
Lot Area (square feet)	10,000	4,500	6,250	6,250	4,000	4,000	5,000	5,000	4,000	5,500
Lot Area Per Dwelling Unit (square feet)	10,000	4,500	6,250	3,125	1,500	1,500	2,900	1,800	1,000	1,210
Lot Width (feet) [1]	75	33	50	50	33	33	40	50	33	44
<b>Minimum Setback (feet)</b>										
Front [2]	25	25	20	20	20	20	20	20	15	15
Rear — abutting RS/RD districts	25	25	20	20	20	20	25	25	25	25
Rear — abutting RM/C/M districts	25	25	20	20	20	20	20	20	20	20
Side (interior) — abutting RS/RD districts	8	5	5	5	5	5	15	15 [3]	5 [3]	15 [3]
Side (interior) — abutting RM/C/M districts	8	5	5	5	5	5	5	5	5	5
<b>Minimum Outdoor Area</b>										
Area (square feet per dwelling unit)	—	—	—	—	—	—	75	50	50	50
Minimum Dimension (feet)	—	—	—	—	—	—	7.5	5	5	5
<b>Maximum Impervious Coverage</b>										
(percent of lot area) [4]	45	45	50	55	60	60	60	60	70	60
<b>Maximum Height</b>										
(feet)	35	35	35	35	35	35	35	4 stories [5]	6 stories [5]	6 stories [5]

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**NOTES:**

- [1] Lot width is measured at the front setback line.
- [2] Provided, however, that when 25% or more of all the frontage on one side of a street between two intersecting streets was, on April 22, 1954, built up with buildings, no building erected or altered after that date shall project beyond the average of the setback line so established, and provided, further, that no building shall be required to set back more than 40 feet in any case as a result of this provision.
- [3] Buildings over 35 feet in height shall have a side yard setback of 15 feet.
- [4] The Planning Commission is authorized to modify impervious cover limits for uses requiring special use permit approval.
- [5] Additional building height may be allowed if reviewed and approved as a Planned Unit Development.

**§ 5.2. Commercial and Manufacturing District Standards.**

All development in the Commercial and Manufacturing districts must comply with the standards in the following table unless otherwise expressly stated.

<b>Table 5.2-1 Commercial And Manufacturing District Standards</b> [Amended 3-19-2007 by Ord. No. 1822; 6-6-2022 by Ord. No. 2049]									
	CMU	CNO	CN-1	CO	CN-2	CCBD	CBTR	M-1	M-2
<b>Minimum Site Area for Rezoning to the District</b>									
(square feet)	—	—	—	5,000	1 Ac	—	2 Ac	1 Ac	1 Ac
<b>Maximum Site Area</b>									
(square feet)	—	—	15,000		7 Ac	—	—	—	—
<b>Minimum Lot Size</b>									
Lot Area (square feet)	2,900	6,250	2,900	5,000	5,000	—	—	5,000	5,000
Lot Area per Dwelling Unit (square feet)	1,800	3,750	1,800	[1]	1,800	—	NA	NA	NA
Lot Width (feet)	—	50	—	[2]	—	—	—	—	—
<b>Minimum Setbacks (feet)</b>									
Front	—	15				—	50	—	25
Rear — abutting R district	15	25	15	15	15	—	50	25	50
Rear — abutting alley or C/M district	—	20	—	— [3]	—	—	50	—	25
Side (Interior) — abutting R district	15	15	15	15	15	—	25	25	50
Side (Interior) — abutting C/M district		6	—	— [3]	—	—	25	—	25
<b>Maximum Height</b>									
(feet)	50	50	35	65	35	[4]	50 [5]	—	—



**Table 5.2-1 Commercial And Manufacturing District Standards**  
 [Amended 3-19-2007 by Ord. No. 1822; 6-6-2022 by Ord. No. 2049]

	CMU	CNO	CN-1	CO	CN-2	CCBD	CBTR	M-1	M-2
<b>Maximum Impervious Cover</b>									
(% of lot)	65	60	65	70	75	100	70	80	80

**NOTES:**

- [1] 900 square feet of lot area per multifamily unit, 4000 square feet of lot area per single-family or duplex dwelling unit.
- [2] No requirement unless the lot is used for residential purposes, in which case the minimum lot width shall be 44 feet at the building line.
- [3] No requirement unless the site is used for residential purposes, in which case a setback of five feet shall be required.
- [4] See § 2.3G.4: CCBD Central Business District.
- [5] Mechanical equipment on the roof of the building may not exceed 20 feet in height and must be screened. Mechanical equipment is not counted toward the maximum building height of the building. Maximum height of 30 feet for buildings located within 100 feet of R districts or lots containing residential use.

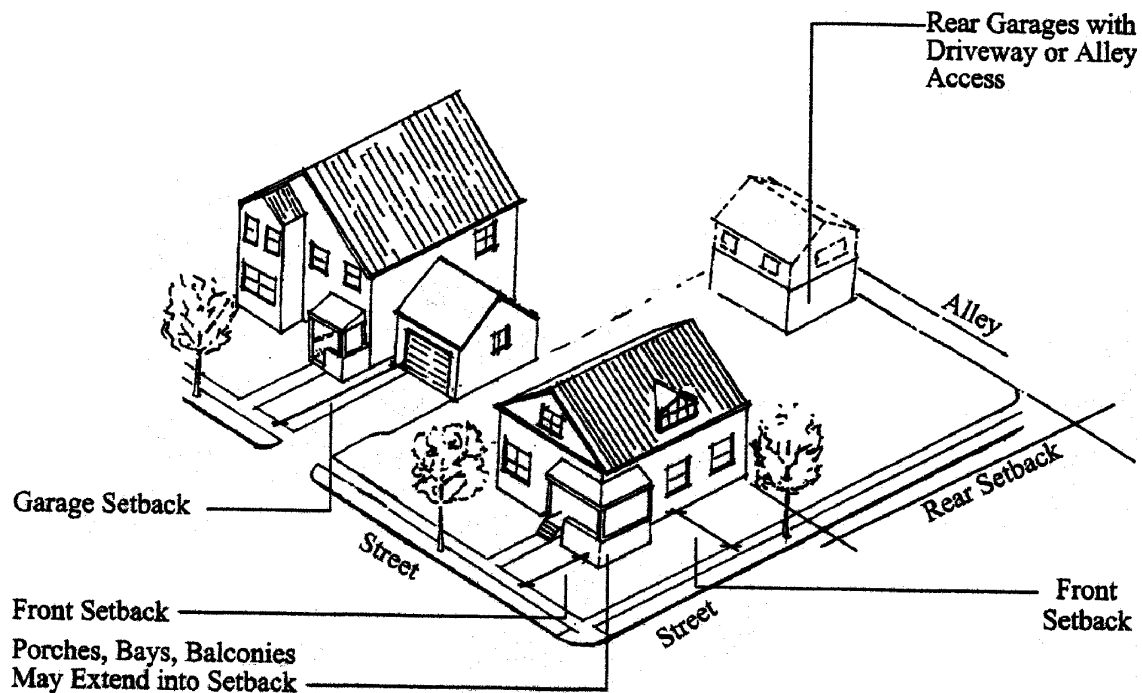
**§ 5.3. Measurements, Computations and Exceptions.**

- A. Distance Measurements. Unless otherwise expressly stated, all distances specified in this Ordinance are to be measured as the length of an imaginary straight line joining those points.
- B. Lot Area. The area of a lot includes the total horizontal surface area within the lot's boundaries, not including submerged lands, public access easements or rights-of-way. For nonconforming lots, see § 9.4: Nonconforming Lots.
- C. Lot Width. Lot width is the distance between side lot lines measured at the point of the required front setback.
- D. Setbacks.
  - 1. Measurements. Setbacks refer to the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located. Setbacks must be unobstructed from the ground to the sky except as otherwise expressly allowed in this section. (See § 5.3D.5: Allowed Encroachments into Required Setbacks).
  - 2. Front Setbacks.
    - a) Measurement. Front setbacks extend the full width of a lot and are measured from the street right-of-way line.
    - b) Double-Frontage Lots. Double-frontage lots must provide a front setback on both streets.
    - c) Corner Lots. On a corner lot, two front setbacks are required; however, the front setback on the side of the building that does not contain the primary entrance may be reduced by 50%. **[Amended 3-19-2007 by Ord. No. 1822]**
  - 3. Side Setbacks.
    - a) Side setbacks extend from the required front setback line to the required rear setback line and are measured from the side lot line. If no street or rear setback is required, the required setback area must extend the full depth of the lot.

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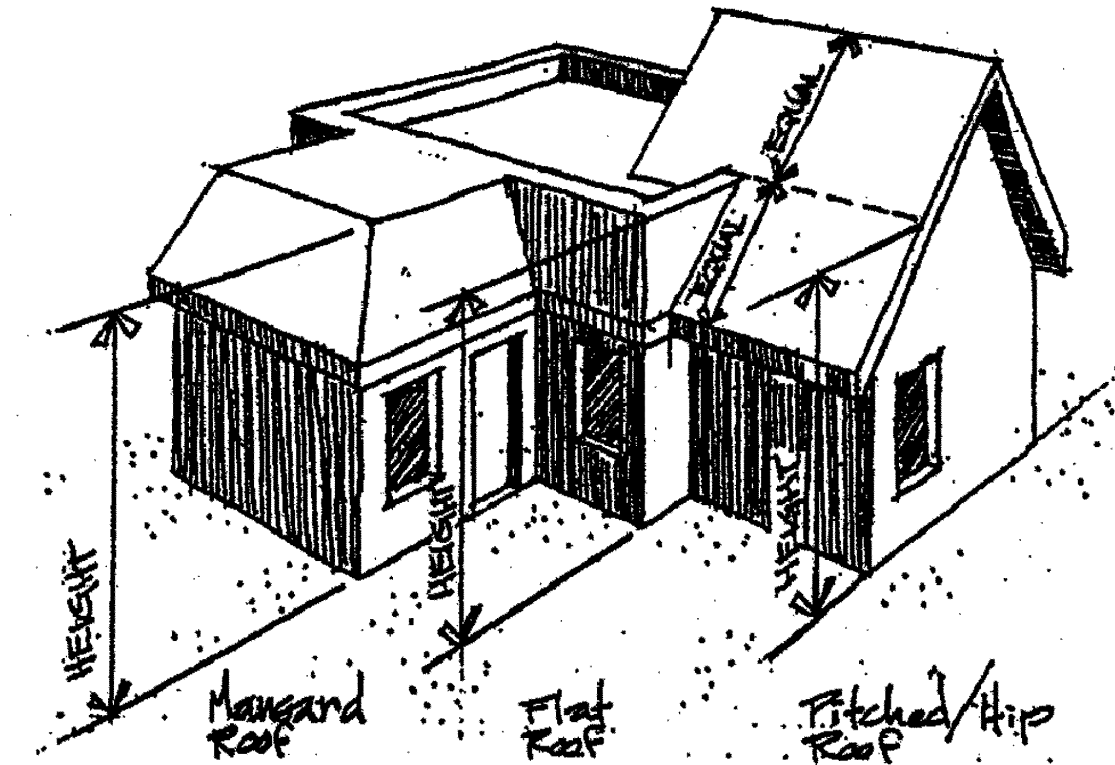
- b) Side setbacks on through lots must run the full length of the lot between street lot lines.
- c) For nonconforming lots see § 9.4, Nonconforming Lots.
- 4. Rear Setbacks. Rear setbacks extend the full width of the lot and are measured from the rear lot line.
- 5. Allowed Encroachments into Required Setbacks. The following features may be located within required setbacks to the extent indicated.
  - a) Sidewalks and landscaping may be located in any required setback.
  - b) Cornices, canopies, eaves or other architectural features may project into required setbacks up to 2.5 feet.
  - c) Unenclosed fire escapes may project into required setbacks, provided that they are set back at least three feet from all property lines.
  - d) Unenclosed balconies and unenclosed porches may project into a front or rear setback by up to 10 feet.
  - e) An uncovered stair and necessary landings may project into required setbacks, provided they are set back at least three feet from all property lines and that the stair and landing may not extend above the entrance floor of the building except for a railing not exceeding four feet in height.
  - f) Bay windows, balconies, and chimneys may project into required setbacks up to two feet, provided that such features do not occupy, in the aggregate, more than 1/3 the length of the building wall on which they are located.
  - g) Accessory structures may project as allowed in § 4.3: Accessory Uses and Structures.
  - h) Fences and walls may encroach into setback area as permitted by § 4.3: Accessory Uses and Structures.



**Figure 5-1: Building Setbacks**  
**[Amended 3-19-2007 by Ord. No. 1822]**

E. Height.

1. Measurement. Building height is measured as the vertical distance from grade at the base of the structure to:
  - a) The highest point of the coping of a flat roof,
  - b) The deck line of a mansard roof, or
  - c) The mean height between the eaves and ridge on gable, hip or gambrel roofs.
2. Exceptions.
  - a) Except as specifically provided in this Ordinance, the height limits of this Ordinance do not apply to any roof structures for housing elevators, stairways, tanks, ventilating fans, solar energy collectors, or similar equipment required to operate and maintain a building, provided that such structures do not cover more than 33% of the roof area or extend over 10 feet in height above the maximum height allowed by the underlying district.
  - b) Except as specifically provided in this Ordinance, the height limitations of this Ordinance do not apply to noncommercial/receive-only radio antennas, television antennas, religious assembly spires or steeples, municipal water towers, or similar structures, which may be erected above the height limit, nor to fire or parapet walls provided that such walls may not extend more than five feet above the roof.
  - c) Flag poles, or similar structures, are not subject to height limitations but must be set back one additional foot from the setback line for every one foot in height that the flag pole exceeds the



**Figure 5-2: Building Height Measurement  
(Composite of Several Roof Forms)**

- F. **Impervious Cover.** Impervious surface is any hard surfaced, human-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks and paved recreation areas. In addition, impervious cover includes swimming pools, because absorbed and retained water is not permitted to permeate the ground. City approved pervious paving materials may be excluded from impervious cover calculations.
- G. **Limitations.** The regulations of this chapter 5 shall not be applied so as to reduce the buildable width or depth of any lot of record to less than 50% of its average width or depth. These yard and setback regulations shall not be applied so as to prohibit the reconstruction of a one-family dwelling, existing on October 18, 2005, that has been damaged or destroyed and that is reconstructed within two years from the date of said damage or destruction; provided such reconstruction shall maintain the same yard and setback dimensions as the original structure.

CHAPTER 6  
General Development Standards

All development in all zone districts shall comply with all applicable standards in this chapter 6, unless specifically exempted in the subsections below, or unless a different standard is required by an applicable overlay district. These standards shall apply in addition to:

- A. Those district-specific standards listed in Chapters 2 and 3 (for the zone district(s) where the property is located); and
- B. Those use-specific standards listed in Chapter 4 (as applicable to the proposed use); and
- C. Those density/intensity/dimensional standards in Chapter 5.

In the event of any conflict between the standards set forth in this chapter 6 and the standards set forth in Chapters 2 through 5, the latter shall govern.

**§ 6.1. (Reserved)<sup>202</sup>**

**§ 6.2. Landscaping and Open Spaces.**

- A. Intent. The intent of § 6.2 is to specify landscape requirements for all land uses requiring site plan review, and to provide for landscape techniques to achieve compatibility between abutting and adjacent uses, including public and private streets. These regulations are designed to have flexibility taking into account the high percentage of already developed property and the wide variation in the size of existing lots. In addition, these regulations are intended to:
  - 1. Promote the public health, safety and general welfare by reducing noise, air and visual pollution, air temperature, and light glare;
  - 2. Improve air quality;
  - 3. Prevent soil erosion and increase water retention;
  - 4. Improve the appearance of on-premises parking, vehicular-use areas, and property abutting public rights-of-way;
  - 5. Improve the aesthetics and safety of pedestrian sidewalks, both within paved areas and along public rights-of-way;
  - 6. Require buffering between different land uses;
  - 7. Protect residential privacy; and
  - 8. Encourage the use of landscape vegetation native to Southwest Michigan.
- B. Applicability. All uses requiring a sketch site plan or full site plan pursuant to § 8.3H: Site Plan shall comply with the requirements contained in § 6.2.
- C. General Landscaping Standards.
  - 1. Landscape Plan Required. A landscaping plan shall be required to be submitted as a part of all development applications subject to § 6.2, unless the City Planner determines that compliance with the provisions of § 6.2 can be documented without the use of such a plan. Each landscaping plan shall comply with all provisions of § 6.2. A landscaping plan may be combined with other required application materials if compliance with § 6.2 can be clearly demonstrated in the combined materials.
  - 2. Maximum Percentage of One Species. Except for plantings used for screening, no one species of tree or

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**202. Editor's Note: Former 6.1, Off-Street Parking and Loading, as amended, was repealed 11-19-2018 by Ord. No. 1973. For current parking and loading regulations, see Chapter 50, Zoning, Art. 7, Parking and Loading Regulations.**

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shrub may make up more than 50% of the total amount of landscape plantings.

3. **Plant Materials.** All plant material shall be hardy to the area, free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen. The use of vegetation native to the area and Southwest Michigan, the use of a mixture of vegetation from the same species association, and the adherence to standards as recommended in the document entitled Recommended Landscaping Standards in the City of Kalamazoo, is encouraged.
  4. **Minimum Living Materials.** In all areas where landscaping is required, a minimum of 50% of the surface area shall be covered by living materials, rather than bark, gravel, or other nonliving materials.
  5. **Minimum Sizes.** The minimum size of plant materials shall be as shown in the graphics of the Recommended Landscaping Standards in the City of Kalamazoo, copies of which shall be made available in the office of the Community Planning and Development Department.
  6. **Plant Material Spacing.** Except for buffer zone provisions of § 6.2H: Buffer Area Landscaping Between Land Uses, plant materials shall not be placed closer than four feet from the fence line or property line. Plant materials used together in informal groupings shall meet the on-center spacing requirements as shown in the Recommended Landscaping Standards in the City of Kalamazoo.
  7. **City Right-of-Way.** Tree removal or planting in City rights-of-way shall be in accordance with Chapter 42 of the Code of Ordinances of Kalamazoo. Unless an alternate surface is approved by the Public Services Department or other appropriate jurisdiction, all public rights-of-way located between street edges and property lines shall be grass-surfaced. **[Amended 3-19-2007 by Ord. No. 1822]**
  8. **Naturalized Landscaping.** Naturalized landscaping is permitted in accordance with §§ 22-3, 22-4, and 22-5 of the Code of Ordinances of Kalamazoo.
  9. **Delay of Installation Due to Season.** Whenever the installation of required landscaping is not possible by the time construction on the primary structure has been completed, staff may authorize a delay in installation until no later than the following June 30. As a condition of authorizing a delay in installation, the City may require that a letter of credit or other guarantee of such installation be provided by the applicant, or the City may issue a temporary certificate of occupancy, with the permanent certificate of occupancy to be issued following installation of all required landscaping.
  10. **Preservation of Existing Screening.** Regardless of the other provisions under this subsection, existing trees, vegetation, other natural features, and other screening components such as walls, berms, and fences that are located within the required setback of the site, that are healthy or otherwise in good condition, and that provide, in the opinion of the City Planner, an important measure of screening for adjacent properties shall be preserved. When a property is required to provide buffering/screening under the regulations in § 6.2, a site plan shall be provided that identifies all existing trees of 10 inches or greater in diameter measured at breast height located throughout the entire site and which of those trees will be removed; any existing healthy trees in good condition shall only be removed on a showing of good cause. **[Added 5-16-2011 by Ord. No. 1882]**
- D. **Sidewalk Required.** In all zone districts except Manufacturing districts, each lot where the principal land use is a nonindustrial use shall include a sidewalk along the lot frontage. Such sidewalk shall be a minimum of four feet in width and shall be located so as to align with sidewalks on adjacent properties, or, if no such sidewalks exist, then shall be located a minimum of five feet from the curblin in order to allow room for plantings between the sidewalk and the curblin.
- E. **Required Landscaping for Front Yard Setbacks Without Parking or Paved Areas.** Required front yard setbacks shall contain a minimum of one tree or one evergreen tree for each 35 feet of linear street frontage, plus one shrub for each 25 feet of linear street frontage. Lot frontage areas occupied by curb cuts or driveways shall be included when calculating linear frontage planting requirements, and any trees that would otherwise be

§ 6.2 required in such areas being planted in remaining lot frontage areas unless prohibited by minimum spacing requirements for the species being use. § 6.2

F. Required Landscaping for Building Perimeters. In all zone districts except the CCBD zone district, all primary structures in multifamily, commercial, or industrial use shall include building perimeter landscaping. At least one shrub shall be planted per each five lineal feet of each facade facing a public right-of-way or containing a primary entrance. Foundation plantings may be clustered to provide interest, and plants of larger size or differing species shall be installed adjacent to the main pedestrian entryway to each building to emphasize that entryway. Foundation planting requirements may be waived for portions of the sides or rears of buildings where loading areas or other similar areas precluding planting.

G. Required Landscaping for Parking Lots and Loading Zones. All parking lots shall be required to provide the following amounts and types of landscaping unless alternative standards for specific situations are required pursuant to § 6.3: Screening and Fences or § 6.5: Design Standards below:

1. Perimeter Screening From Public Streets.

a) All zone districts except CCBD. In all zone districts except the CCBD zone, each parking lot that abuts a public street shall provide a landscape screen as follows:

- 1) Minimum width: five feet.
- 2) Required trees: one tree per 35 feet of linear frontage.
- 3) Required shrubs: three shrubs per 20 feet of linear frontage. Shrubs shall not be required if a berm or an opaque fence or wall having a minimum height of three feet is erected.

b) CCBD Zone District. All parking lots within the CCBD zone district shall provide a landscape screen as follows:

- 1) Minimum width: three feet. The Site Plan Review Committee may reduce or waive the minimum width requirement if a decorative wall or fence having a minimum height of three feet is erected.
- 2) Required trees: one tree per 20 feet of linear feet if the planting width is a minimum of four feet.
- 3) Required plantings: six shrubs per 20 feet of linear frontage.
- 4) The Site Plan Review Committee may waive in whole or in part all required plantings in cases where a decorative wall or fence having a minimum height of three feet is erected, or when approved screen width does not make planting possible.

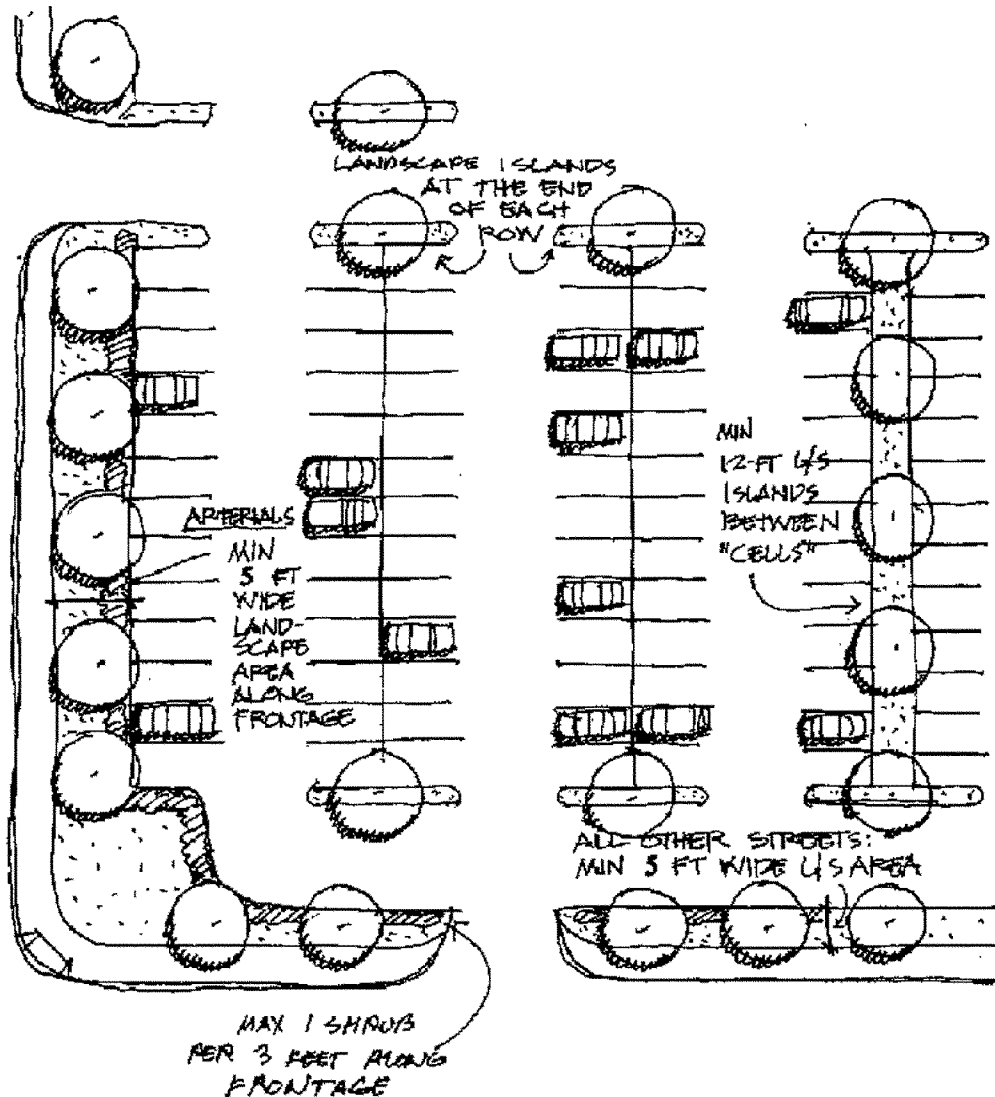
2. Perimeter Screening From Abutting Residential. When a parking lot or loading area directly adjoins or faces a residentially zoned or residentially used lot (regardless of whether there is an intervening street or alley or railway right-of-way), a continuous screening wall, berm, fence or row of planting having a minimum height of four feet shall be provided. Such screening material shall be designed to provide 75% opacity one year after planting for the required height and length of the screening buffer.

3. Interior Landscaping Requirements. Parking lots in all districts having more than 30 parking spaces shall be required to provide the following landscape improvements internal to the parking lot:

- a) Five percent of the entire parking lot area shall be provided as a landscape area;
- b) One tree shall be provided for each 300 square feet of internal landscape area;
- c) Internal landscape areas shall be dispersed on the site so as to break up the expanse of pavement;

and

- d) Internal landscape areas shall be curbed for protection of the landscape materials.



**Figure 6-3: Parking Lot Landscaping**  
 [Amended 3-19-2007 by Ord. No. 1822]

- H. Buffer Area Landscaping/Screening Between Land Uses. In addition to required yard landscaping and parking area landscaping, buffer areas are required to be landscaped/screened when specific types of adjacent land uses occur. Existing trees, vegetation, natural features, and other screening components located at property borders shall be preserved whenever possible. [Amended 5-16-2011 by Ord. No. 1882]
  - 1. Multiple-Family Residential or Group Living Uses Abutting Single-Family Residential Uses or Zoning District. Where a multiple-family residential project with more than eight units, or a group living use abuts any lot that is used or zoned for single-family residential purposes, a landscape or other screening component meeting the standards under one of the three options listed below in Subsection (a), (b) or (c) shall be implemented.
    - a) Option 1. A landscape screening area having a minimum width of 10 feet shall be provided by the



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- multiple-family or group-living project on the shared border. The buffer area shall consist of a row of six-foot-tall evergreen trees planted parallel to the property line and spaced at no more than six feet on center. Impervious materials are not permitted in the landscape screening area.
- b) Option 2. An opaque wall, berm, or fence shall be provided on the shared border with a minimum height of six feet.
  - c) Option 3. A multiple-family or group-living project shall retain an existing landscape screening area along the shared border having a minimum width of 10 feet. At a minimum, the landscape screening area shall consist of a row of six-foot-tall evergreen trees located parallel to the property line and spaced at no more than six feet on center. If the existing trees are spaced further apart than six feet on center, then additional six-foot-tall evergreen trees shall be planted within the landscape screening area to achieve the required spacing. Impervious materials at ground level are not permitted in landscape screening areas.
2. Commercial, Public and Civic Uses Abutting Any Residential Use or Residential Zoning District. Where a commercial, public or civic project abuts any lot that is used or zoned for residential purposes, a landscape or other screening component meeting the standards under one of the three options listed below in Subsection (a), (b) or (c) shall be implemented.
- a) Option 1. A landscape screening area having a minimum width of 10 feet shall be provided by the commercial, public or civic project on the shared border. The buffer area shall consist of a row of six-foot-tall evergreen trees planted parallel to the property line and spaced at no more than six feet on center. Impervious materials are not permitted in the landscape screening area.
  - b) Option 2. An opaque wall, berm, or fence shall be provided on the shared border with a minimum height of six feet.
  - c) Option 3. A commercial, public or civic project shall retain an existing landscape screening area along the shared border having a minimum width of 10 feet. At a minimum, the landscape screening area shall consist of a row of six-foot-tall evergreen trees located parallel to the property line and spaced at no more than six feet on center. If the existing trees are spaced further apart than six feet on center, then additional six-foot-tall evergreen trees shall be planted within the landscape screening area to achieve the required spacing. Impervious materials at ground level are not permitted in landscape screening areas.
3. Industrial Uses Abutting Any Residential Use or Residential Zoning District. Where an industrial project abuts any lot that is used or zoned for residential purposes, a landscape or other screening component meeting the standards under one of the three options listed below in Subsection (a), (b) or (c) shall be implemented.
- a) Option 1. A landscape screening area having a minimum width of 15 feet shall be provided by the industrial project on the shared border. The buffer area shall consist of a row of eight-foot-tall evergreen trees planted parallel to the property line and spaced at no more than six feet on center. Impervious materials are not permitted in the landscape screening area.
  - b) Option 2. An opaque wall, berm, or fence shall be provided on the shared border with a minimum height of eight feet.
  - c) Option 3. An industrial project shall retain an existing landscape screening area along the shared border having a minimum width of 15 feet. At a minimum, the landscape screening area shall consist of a row of eight-foot-tall evergreen trees located parallel to the property line and spaced at no more than six feet on center. If the existing trees are spaced further apart than six feet on center, then additional eight-foot-tall evergreen trees shall be planted within the landscape screening area to achieve the required spacing. Impervious materials at ground level are not permitted in

landscape screening areas.

4. Industrial Uses Abutting Commercial, Public and Civic Uses or Commercial, Public, or Institutional Zoning Districts. Where an industrial project abuts any lot that is used or zoned for commercial, public or civic purposes, a landscape or other screening component meeting the standards under one of the three options listed below in Subsection (a), (b) or (c) shall be implemented.
  - a) Option 1. A landscape screening area having a minimum width of 10 feet shall be provided by the industrial project on the shared border. The buffer area shall consist of a row of six-foot-tall evergreen trees planted parallel to the property line and spaced at no more than six feet on center. Impervious materials are not permitted in the landscape screening area.
  - b) Option 2. An opaque wall, berm or fence shall be provided on the shared border with a minimum height of six feet.
  - c) Option 3. An industrial project shall retain an existing landscape screening area along the shared border having a minimum width of 10 feet. At a minimum, the landscape screening area shall consist of a row of six-foot-tall evergreen trees located parallel to the property line and spaced at no more than six feet on center. If the existing trees are spaced further apart than six feet on center, then additional six-foot-tall evergreen trees shall be planted within the landscape screening area to achieve the required spacing. Impervious materials at ground level are not permitted in landscape screening areas.
5. City Planner's Right to Select Landscape or other Screening Options. For purposes of the landscape or other screening component options listed under Subsection H(1) through H(4), the City Planner reserves the right to select which of the three options listed in each such subsection is appropriate for the proposed project under the following criteria:
  - a) The character and type of screening used on adjacent properties;
  - b) The adequacy of the existing screening on the project site; and
  - c) What option provides the most effective screening for the adjacent property.
6. Additional Screening for Topographic Considerations in all Zones. When any portion of a principal building on a property abutting any project that is subject to these regulations is located within 50 feet of a property line that is shared with the project property, as measured perpendicularly from the shared property line to and along the line of the foundation of the principal building, and the grade elevation of the principal building, as measured at twelve-inch intervals, averages two or more feet higher than the grade elevation at the shared property line, the height of the required screening for the project shall be increased by an amount equal to the grade difference, up to a maximum total height of 12 feet. In addition, the location of the required screening for the project may be moved away from the shared property line if, at the discretion of the City Planner, such location will provide a greater screening benefit for the abutting property than if it was located at the property line.
- I. Maintenance. Landscaped areas and plant materials required by ordinance shall be kept free from refuse and debris. Plant materials, including lawns and naturalized landscaping, shall be maintained in a healthy growing condition, and be neat and orderly in appearance. If any plant material required by this chapter dies or becomes diseased, it shall be replaced by the property owner. The Zoning Inspector is authorized to cite property owners if plant materials required by this chapter die or become diseased and are not replaced by the property owner. The Zoning Inspector shall require that plantings be replaced within 30 days of written notice or within an extended time period as specified in said notice.
  1. Tree stakes, guy wires and tree wrap are to be removed within one year of planting.
  2. All landscaped areas shall be provided with a readily available and acceptable water supply, or with at

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least one outlet located within 150 feet of all planted material to be maintained.

3. Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants.
4. Plantings within 15 feet of a fire hydrant shall be no taller than six inches at maturity.
5. Culs-de-sac, site entrances and boulevard medians shall be landscaped with species tolerant of roadside conditions in southwest Michigan.
6. Landscaping within the site shall be approved in consideration of sight distance, size of planting area, location of sidewalks, maintenance of adequate overhead clearance, accessibility to fire hydrants, visibility to approved signs of adjacent uses, compatibility with the visual character of the surrounding area, and curbing around landscape areas.

J. Incentives to Preserve Existing Trees. The City encourages the preservation of quality and mature trees by providing credits toward the required landscaping. Trees intended to be preserved shall be indicated with a special symbol on the site plan and shall be protected during construction through use of a fence around the drip line (an illustration of which is provided in the Recommended Landscaping Standards in the City of Kalamazoo). To obtain credit, the preserved trees shall be of a high quality and at least 2 1/2 inches DBH. Trees to be preserved shall be counted for credit only if they are located on the developed portion of the site as determined by Site Plan Review Committee or Planning Commission. The credit for preserved trees shall be as shown in Table 6.2-1. Any preserved trees for which credit is given, and that are lost to damage or disease within two years such credit is awarded shall be replaced by the landowner with trees otherwise required.

<b>Caliper of Preserved Tree (inches)</b>	<b>Numbers of Trees Credited</b>
Over 12 inches	3
8 inches to 11.9 inches	2
2.5 inches to 7.9 inches	1

K. Special Provisions for Existing Sites.

1. Intent. Special provision is made for applying these standards to improved sites that were developed prior to October 18, 2005. When an existing site is undergoing any external alteration or expansion, the objective of these standards is to gradually bring the existing site into compliance with the minimum standards of § 6.2, with the degree of compliance being appropriate in light of the extent of expansion or change on a site. When reviewing plans for a change in use or expansion that requires site plan or sketch plan review, the Site Plan Review Committee or Planning Commission, as appropriate, shall require an upgrade in landscaping, using the following as guidelines:
  - a) Each building expansion of 1% of gross floor area shall include at least 4% of the landscaping required for the entire site. The calculations shall be based upon the landscaping requirements for all existing and proposed developments on the site. All fractional calculations shall be rounded up.
  - b) The estimated cost of landscaping added shall generally be equal to at least 5% of the estimated value of the new construction.
  - c) Landscaping along the street and as a buffer between adjacent land uses will take priority over parking lot and site landscaping, particularly where there is no excess parking over that required by ordinance. Where parking lot landscaping cannot be provided, additional landscaping along the

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street or in the buffer areas may be substituted.

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- d) A reduction of minimum off-street parking requirements established in § 6.1: Off-Street Parking and Loading by up to 10% may be approved if required to accommodate required street frontage landscaping or parking area landscaping.

### § 6.3. Screening and Fences.

A. Fence and Wall Standards for Residential Uses. All fences or walls erected in residential zone districts, or on lots containing residential uses, shall comply with the following standards.

1. Placement.

- a) Fences shall be installed entirely within the confines of a residential lot.
- b) Whenever any fence will be visible from public rights-of-way or adjacent properties, it shall be installed so that the more finished side (i.e. the side with fewer or no visible structural framing or bracing elements) faces outward from the lot on which it is installed.

2. Height. Fences and walls shall not exceed a height, as measured from natural grade levels, of four feet in front setbacks and seven feet in side and rear yards. On corner lots where the primary structure faces the shorter dimension of a block face, fences and walls shall not exceed a height, measured from natural grade levels, of four feet between the street property line and building setback on the adjacent lot, and in no case shall the four foot maximum height requirement apply more than 30 feet from the street property line. Fences may be located on top of walls, but the combined height of the fence and wall together, measured from natural grade at the base of any wall, shall not exceed the maximum height permitted for a fence or wall by itself.

3. Materials.

- a) No chain-link fence shall be installed in any front setback or front yard.
- b) No fence with opacity of more than 75% shall be installed in any front setback or front yard.
- c) No plywood fences and woven plastic or metal slat fences shall be installed.
- d) No fence or wall made of debris, junk, or waste materials shall be installed unless such materials have been recycled and reprocessed into building materials marketed to the general public and resembling new building materials. Barbed wire and razor wire on fencing shall comply with § 22-14 of the Kalamazoo General Code.

B. Fence and Wall Standards for Nonresidential Uses. All fences or walls erected in nonresidential zone districts, or on lots containing no residential uses, shall comply with the following standards.

1. Placement.

- a) Fences shall be installed entirely within the confines of the lot.
- b) Whenever any fence will be visible from public rights-of-way or adjacent properties, it shall be installed so that the more finished side (i.e. the side with fewer or no visible structural framing or bracing elements) faces outward from the lot on which it is installed.

2. Height. Fences and walls shall not exceed a height, as measured from natural grade levels, of six feet in front setbacks or front yards, and eight feet in side and rear yards. Fences may be located on top of walls, but the combined height of the fence and wall together, measured from natural grade at the base of any wall, shall not exceed the maximum height permitted for a fence or wall by itself.

3. Materials.

- a) No chain-link fence shall be installed in any front setback or front yard.
- b) No fence with opacity of more than 75% shall be installed in any front setback or front yard.
- c) No plywood fences and woven plastic or metal slat fences shall be installed.
- d) No fence or wall made of debris, junk, or waste materials shall be installed unless such materials have been recycled and reprocessed into building materials marketed to the general public and resembling new building materials. Barbed wire and razor wire on fencing shall comply with Section 22.14 of the Kalamazoo General Code.

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 C. Screening of Mechanical Equipment. All roof mounted or ground mounted mechanical equipment on a building or structure containing predominantly commercial, industrial, civic, or multifamily uses shall be screened from view (a) from any adjacent public right-of-way, and (b) from any R district located within 150 feet of the subject lot, through the use of an opaque screening or parapet wall, or (in the case of ground mounted equipment) through the use of dense vegetation sufficient to block view of the equipment.

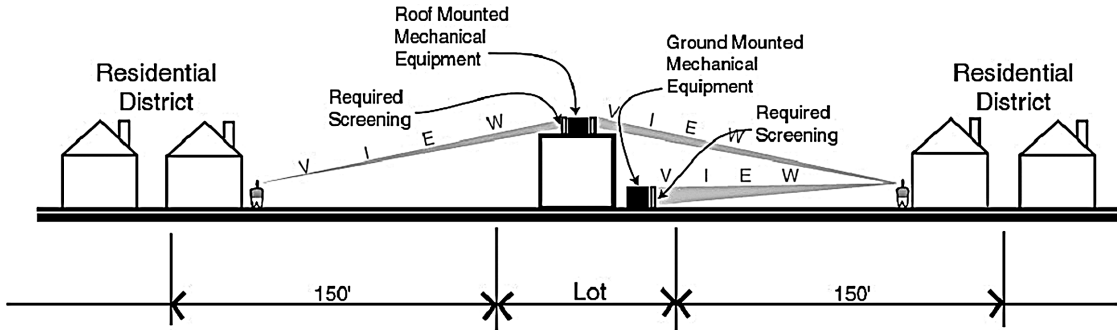


Figure 6-4: Screening Within 150 feet of a Residential District

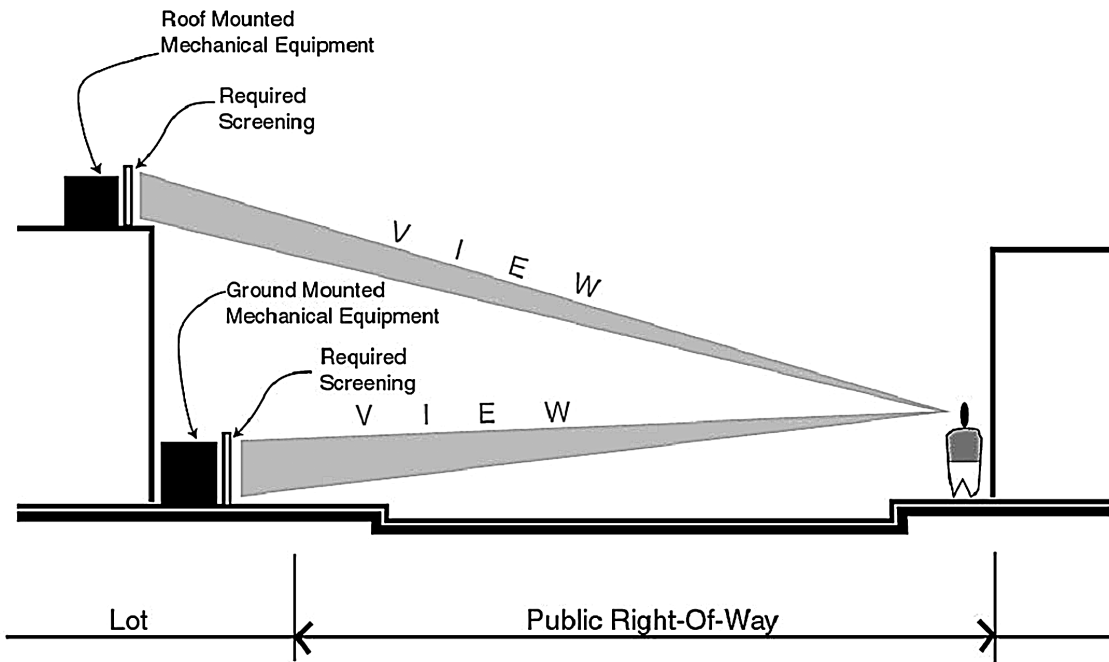
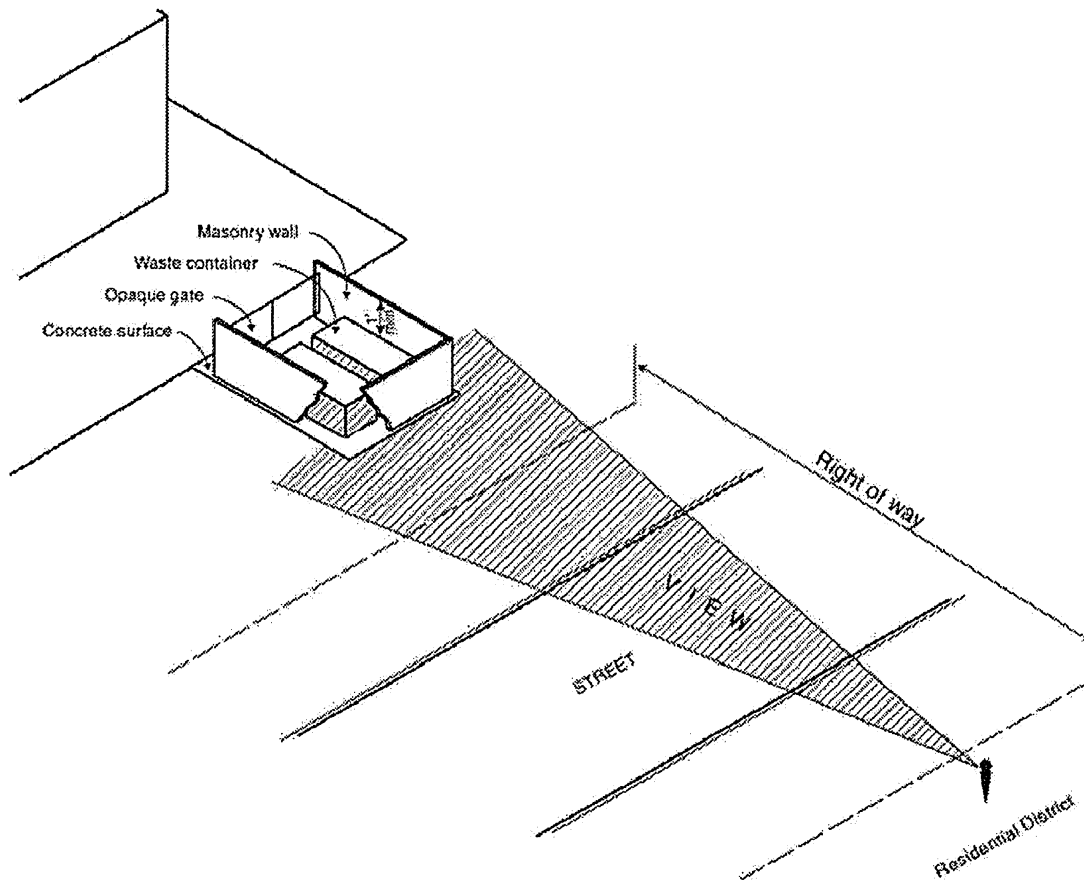


Figure 6-5: Screening From a Public Right-of-Way

D. Screening of Waste Receptacles. All waste receptacles larger than two cubic yards, and all waste receptacles for nonresidential uses, shall be located (a) in the rear or to the side of the primary structure, and (b) at least 20 feet from any street, public sidewalk, internal pedestrian way, or boundary with any lot containing a residential use, and (c) not on any required off-street parking or loading space. Each waste receptacle area shall be screened from view from all property lines by an opaque fence or wall constructed of permitted materials, and with an opaque gate constructed of permitted materials, both of which shall be between six and eight feet in height. The access to this enclosure shall be screened with an opaque gate, and wheel stops shall be provided to prevent damage to screening materials from motor vehicles. All properties that are not in compliance with the requirements of this Subsection D on October 18, 2005, shall be brought into compliance within 24 months after October 18, 2005. This latter provision shall become effective after the City

§ 6.3 Commission approves, by resolution, rules and regulations governing its implementation.

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**Figure 6-6: Screening of Waste Receptacles**

**E. Screening of Drive-Through Facilities.**

1. From Adjacent Streets. All drive-through facilities, including all driveways, entrances and appurtenant structures, shall be set back (a) a minimum of three feet from any adjacent street, if the property is located in the CCBD zone district, and (b) a minimum of five feet from any adjacent street, if the property is located in any other zone district. The required setback area shall contain a decorative wall or fence with a minimum height of four feet to screen the drive-up facility from view from adjacent streets.
2. From Adjacent Residential Areas. All drive-through facilities, including driveways and appurtenant structures, shall be screened from all adjacent properties located in a residential zone, or containing a residential use, through the use of a buffer strip at least five feet in width along such boundary. Such buffer strip shall contain a solid brick or masonry wall four feet in height located on the edge of the buffer strip furthest from the residential use, and the space between such wall and the property boundary shall be landscaped with a minimum of one shrub per 10 feet of wall length. Speakers and lights related to the drive-through use shall be oriented so that they do not direct glare or sound towards the residential use, and the maximum sound volume of any speaker, measured at the property boundary, shall not exceed 50 decibels.

**§ 6.4. Lighting.**

- A. Purpose. All site lighting should be designed and installed to maintain adequate lighting on site and provide

§ 6.4 security for people and property, through the use of fixtures that are durable, while avoiding the use of tall light fixtures that unnecessarily disperse light to surrounding areas, and preventing the creation of glare on adjacent properties. § 6.4

B. Applicability. All development or redevelopment (a) in any Commercial, Public and Institutional, or Manufacturing zone district, and (b) of a multifamily residential use in any zone district, shall comply with the following standards.

C. Design Standards.

1. Wall-Mounted Lights. Wall-mounted lights must have fully shielded luminaires (such as shoebox or can-style fixtures) to direct all light downward, and to prevent the light source from being visible from any adjacent residential property or public street. Unshielded wallpack lights are prohibited.

2. Direction of Lighting.

a) No light source shall be directly visible from any adjacent property located in a residential zone district.

b) No light sources shall be directed outward toward property boundaries or adjacent rights-of-way.

c) No light source shall provide direct, general illumination of facades of buildings visible from adjacent residential properties. Accent lighting (such as lighting emphasizing building entryways or key features) is permitted.

d) Wherever possible, lighting of nonresidential properties should be directed downward. Upward-directed lighting shall not be used to illuminate nonresidential properties, except for low-voltage architectural lighting.

e) Architectural, landscape, and decorative lighting used to illuminate flags, statues, or any other objects shall use a narrowly directed light whose light source is not visible from adjacent residential properties or public streets.

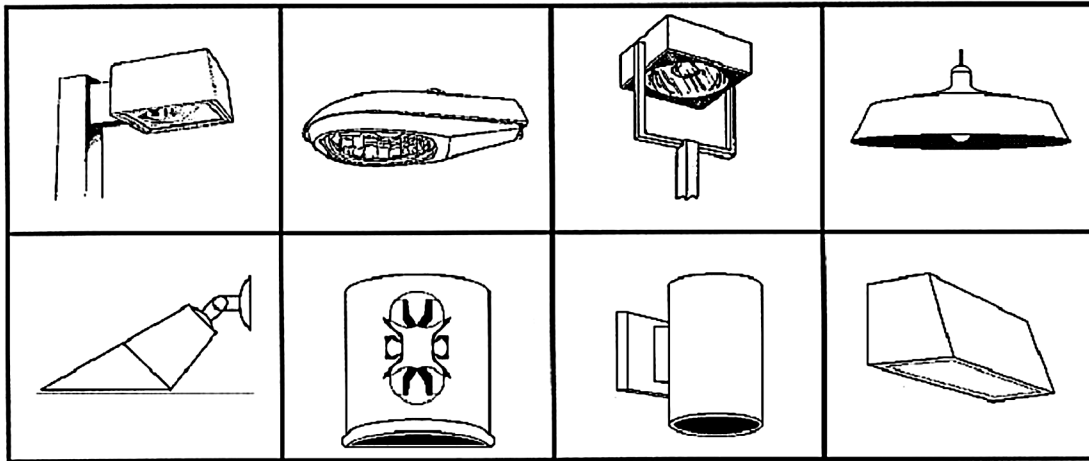
3. Shielding.

a) Exterior. Light fixtures in excess of 60 watts or one 100 lumens shall use full cut-off lenses or hoods to prevent glare and spillover from the project site onto adjacent properties and roadways.

b) Interior. No interior light source shall emit light directly onto adjacent residential property.

c) Canopies. No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.





**Figure 6-7: Shielding Examples**

4. Hue. Approved lighting sources shall be color-correct types such as halogen or metal halide. Lighting types of limited spectral emission, such as low-pressure sodium or mercury vapor lights, are prohibited.
5. Maximum Initial Lamp Wattage. Maximum initial lamp wattage shall not exceed:
  - a) Residential. Sixty watts for five or fewer parking spaces. One hundred watts for six or more spaces.
  - b) Nonresidential. 250 watts for five or fewer parking spaces. Four hundred watts for six or more spaces.
6. Illumination Levels.
  - a) Parking Areas. All lighting in parking areas shall be designed and maintained to produce at least 0.1 footcandle of light at pavement level throughout the parking area. Potentially hazardous locations must be individually illuminated with at least 0.3 footcandle of light. Lights within 100 feet of a residential property line shall be reduced to no more than 0.05 footcandle of light after business hours.
  - b) Spillover Light. Lighting from a property containing a nonresidential primary use shall not create greater than 0.05 footcandle of spillover light at the border with any single-family zone district.
7. Uniformity Ratios. The ratio of maximum to minimum lighting on a given property, measured at ground level, shall not exceed 15:1 in any Residential zone district, and shall not exceed 10:1 in any Commercial, Manufacturing, or Special Purpose zone district.
8. Canopy Lighting.
  - a) In order to minimize direct glare, light fixtures mounted on gasoline and fuel sales canopies and other canopies shall be recessed so that the lens cover is flush with the bottom surface of the canopy or shielded by the fixture or the edge of the canopy so that light is restrained to 85° or less from horizontal.
  - b) As an alternative (or supplement) to recessed lighting, indirect lighting may be used where light is beamed upward and then reflected down from the underside of the canopy. When this method is used, light fixtures must be shielded so that direct light is focused exclusively on the underside of the canopy and is not visible from any residential use adjacent to or across a street or alley from the subject property, or from any public right-of-way.

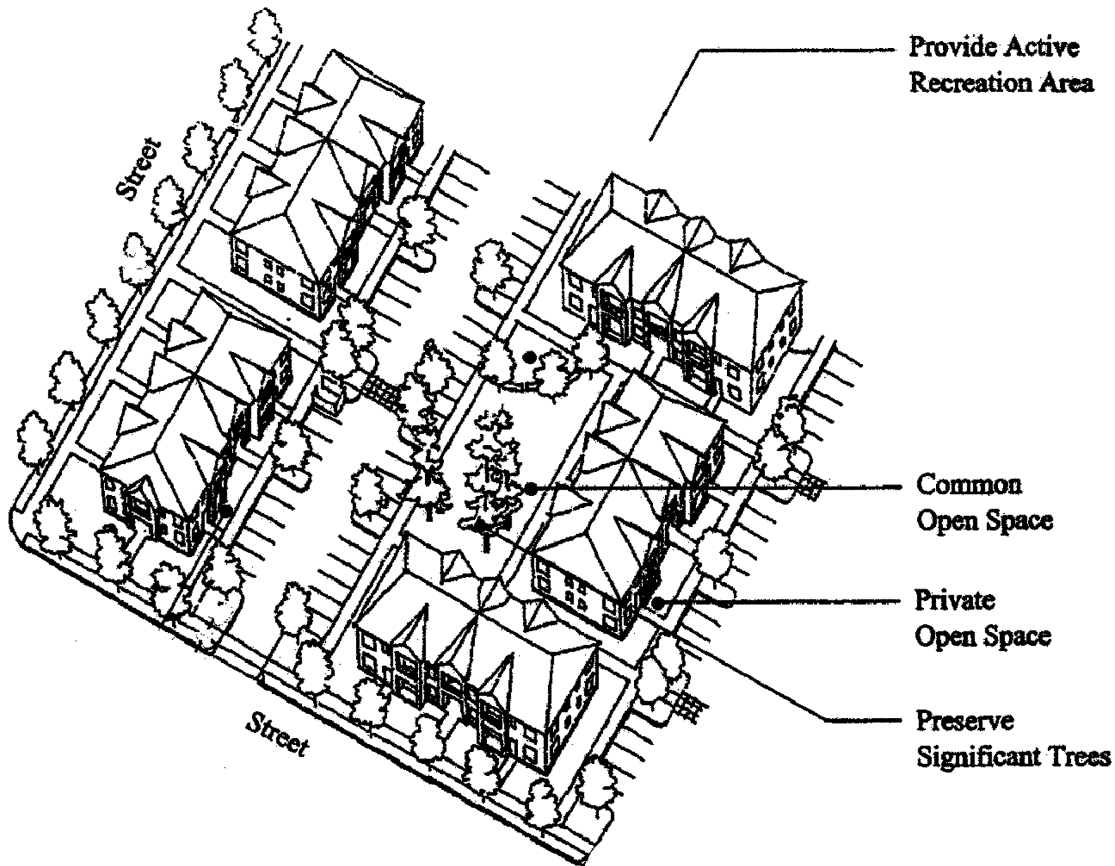
§ 6.4 c) Lights shall not be mounted on the top or sides (fascias) of the canopy. Signing that is in compliance with sign regulations may be placed on these surfaces. § 6.5

D. Height Standards.

1. Except as permitted in Subsection 2 below, lighting fixtures shall be no more than 15 feet high whether mounted on poles or walls or by other means.
2. Light fixtures in parking lots containing more than 50 spaces shall be no more than (a) 20 feet high if located within 100 feet of the boundary of a residential zone district, or (b) 25 feet high if located 100 feet or more from the boundary of a residential zone district. **[Amended 3-19-2007 by Ord. No. 1822]**
3. Wherever possible, illumination of seating areas, building entrances, and walkways shall be accomplished by use of bollard-style fixtures or other low, ground-mounted fixtures not over four feet in height.

**§ 6.5. Design Standards.**

A. Neighborhood Commercial. The following standards shall apply to all nonresidential development in all Residential zone districts and in the CNO, CN-1, CN-2 and CMU zone districts, where the proposed development or redevelopment has less than 50,000 square feet of gross floor area. They are intended to ensure that development in each coveted zone district occurs in a manner that is compatible with adjacent residential neighborhoods and that encourages pedestrian access. Alternative design solutions may be approved during the site plan review process (See § 8.3H: Site Plan) if it is demonstrated that the alternative design solution meets the intent of § 6.5B or if it is determined that application of these standards to a development approved before October 18, 2005 is not feasible. **[Amended 3-19-2007 by Ord. No. 1822]**



**Figure 6-8: Neighborhood Commercial**

1. Quality of Materials.

- a) Front Facades. When the principal entrance of a freestanding building is on the side elevation or at the corner of the front and side elevations, that side elevation shall include the same quality of materials, trim levels, and degree of articulation as those found on the front facade.
- b) Side and Rear Facades. Rear and side facades of all nonresidential buildings facing a public street, park, playground or other public open space shall incorporate the same quality of materials, trim levels, and degree of articulation predominantly found on the front facade of the building. Parking, service, or other open spaces at the rear of the structure shall be maintained in a neat and orderly condition.
- c) Restrictions on Pre-Cast Materials. To the maximum extent practicable, concrete finishes or precast concrete panels (tilt walls) shall not be used as exterior building materials unless they are exposed aggregate, hammered, embossed, patterned, imprinted, sandblasted or covered with a cement-based acrylic coating.
- d) Restrictions on Metal Panels. To the maximum extent practicable, metal panel systems, used as an exterior building material, should be a minimum thickness of U.S. Standard 18 gauge metal. Corrugated (ribbed) metal panels and siding shall be prohibited on all exterior walls except as a method of screening mechanical roof top equipment.
- e) Restrictions on Mirrored Glass. To the maximum extent practicable, mirrored glass with a reflectance greater than 40% shall not be used to cover more than 40% of the exterior walls of any

building.

2. **Building Orientation.** To the maximum extent practicable, and except as otherwise expressly required or unless necessary to avoid site access through an alley adjacent to a residential zoning district, the front or side facade shall face the public street abutting the front property line and at least 50% of the horizontal length of the first floor of the front facade shall be set back not more than 60 feet from said street. To the maximum extent practicable, the main entrance shall face the public street abutting the front property line or face a connecting walkway with a direct pedestrian connection to the public street abutting the front property line.
3. **Outdoor Storage and Display.** Outdoor storage and display is prohibited for all nonresidential development in all Residential zone districts, and in the CNO and CO zone districts. Outdoor display of products for sale or rent shall be allowed in the CMU, CN-1, CN-2, and CCBD zone districts, provided that such display is accessory to an indoor primary use on the property, is not located in the public right-of-way, does not block sidewalks, parking areas, or driveways, and is maintained in a neat and orderly manner. Outdoor storage of supplies, materials, and equipment not for sale or rent, with the exception of vehicles associated with the allowed use on the site, shall not be permitted in the CMU, CN-1, CN-2, and CCBD zone districts. **[Amended 3-19-2007 by Ord. No. 1822; 6-6-2022 by Ord. No. 2049]**
4. **Location of Off-Street Parking and Other Vehicular Use Areas.**
  - a) **CNO and CN-1 Districts.** Front yards must be reserved for landscaping, sidewalks, and driveway access. Off-street parking spaces may not be located between a street property line and the building line of the principal building on the site. Such spaces may be located in side and rear yards if screened from adjacent dwellings by a solid wall, fence or vegetation that is not less than four feet and not more than six feet in height. Vegetation may exceed six feet in height.
  - b) **CN-2 and CMU Districts.** Whenever possible, vehicular use areas, including driveways, loading areas, and off-street parking areas, shall not be located on any portion of a lot adjacent to a residential area. Where location of vehicular use areas adjacent to a residential area is unavoidable or unfeasible, buffering shall be provided as required in § 6.2H.2: Commercial Uses Abutting Residential Uses or Residential Zoning District In the case of construction of new primary structures commenced after October 18, 2005, no more than 50% of required off-street parking areas shall be located between the front facade of a principal building and the adjacent public street. **[Amended 3-19-2007 by Ord. No. 1822]**
5. **Service Areas.** In commercial developments containing less than 20,000 square feet of gross floor area, service functions (shipping/receiving, trash removal, etc.) shall be integrated into the circulation pattern in a manner that minimizes conflicts with vehicles and pedestrians. In commercial developments containing 20,000 square feet or more of gross floor area, service and loading areas shall be separated from main circulation and parking areas and away from public streets.
6. **Additional Requirements for the CNO District.** Door styles must be similar to those found on residential buildings on the block, and new construction (including building additions and rehabilitations) must be designed to have the appearance of other residential buildings along the street.
7. **Additional Requirements for CN-1 District.** Exterior building materials along street facing facades (exterior walls that face streets or sidewalks), not including windows and entries, must consist primarily of masonry, not including concrete block or concrete masonry units. Vinyl and aluminum siding are prohibited.
8. **Additional Standards for CN-2 and CMU Districts.** **[Amended 3-19-2007 by Ord. No. 1822]**
  - a) Modular masonry materials, such as brick and concrete pavers, or gridded cast-in-place materials, such as exposed aggregate concrete, are required as paving materials for all pedestrian areas in

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order to visually define and improve the appearance of pedestrian areas.

- b) Wherever possible, pedestrian access to adjacent residential areas rights-of-way must be provided through the provision of sidewalks in addition to those located on adjacent public streets.
- c) Each commercial tenant space must be accessible from other tenant spaces by sidewalks or other approved pedestrian routes. Pedestrian routes must be continuous, with a minimum horizontal clear space of four feet in all cases. Pedestrian routes must be designed to offer protection to pedestrians and be visually distinguishable from other hardscape elements on the site. Pedestrian routes must be separated from parking and vehicular use areas by curbs, landscaping or other physical barriers. When pedestrian paths cross drive aisles and vehicle travel lanes they must be clearly identified with materials such as textured or brick paving, and must be integrated into the wider network of pedestrian walkways. Pavement textures are encouraged elsewhere in the parking lot, as surface materials, or as accents.
- d) Parking lot layout and design must promote safe and convenient pedestrian and vehicular circulation.
- e) Areas that are not used for vehicular and pedestrian access or parking must be landscaped in accordance with applicable landscape standards.
- f) Buildings in the district must relate to one another, both functionally and visually, and encourage pedestrian activity.
- g) Exterior building materials along street-facing facades (exterior walls that face streets or sidewalks), not including windows and entries, must consist primarily of masonry, not including concrete block or concrete masonry units. Vinyl and aluminum siding are prohibited.
- h) Buildings must avoid uninterrupted wall planes. Building wall offsets, window patterns or other changes in elevation design must be used to give buildings the appearance of small individual store fronts that are no more than 25 feet in width. Similarly, roofline offsets must be used to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

9. Additional Standards for CN-1, CN-2 and CMU Districts. **[Amended 3-19-2007 by Ord. No. 1822]**

- a) One-story buildings must have a minimum height of 18 feet and a maximum height of 22 feet unless there are clerestory windows facing the street that give the appearance of second floor space.
- b) At least 60% of all street-facing facades, measured from grade to a height of 10 feet above finished grade, must be comprised of windows that allow views into business or commercial use areas. The bottom of windows used to satisfy this requirement must be no more than three feet above the adjacent finished grade.
- c) Bicycle parking facilities must be located in convenient areas of the development and must be located so as not to impede pedestrian or vehicular traffic.
- d) Air-conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes and other telecommunications-receiving devices must be screened from view from the public right-of-way and from residential areas, by using walls, fencing, roof elements, penthouse-type screening devices or landscaping.

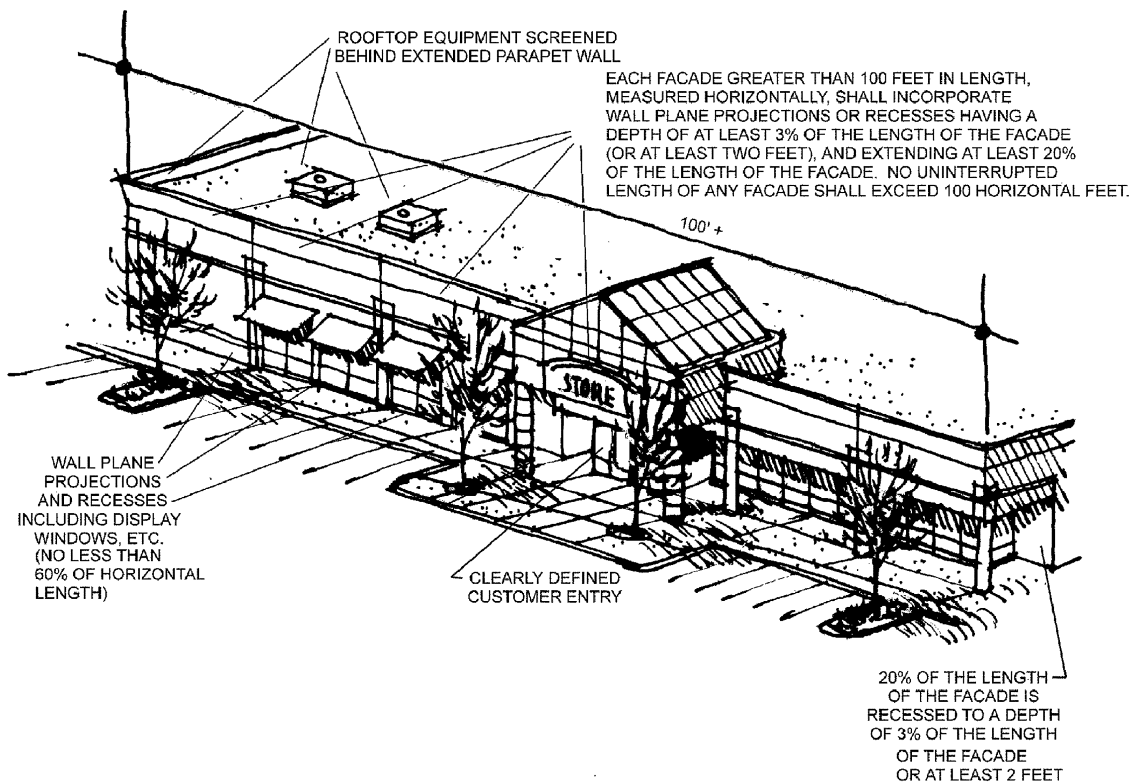
B. Large Retail Establishments. Each single-story primary structure containing primarily commercial retail sales space, and containing more than 50,000 square feet of gross floor area shall comply with the following design standards in addition to those set forth in Subsection A above.

1. Building Facades.

- a) Each facade greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the facade and extending at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 100 horizontal feet.
- b) Each building facade shall have a repeating pattern that shall include no less than three instances of either (a) color change, (b) texture changes, (c) material module change, or (d) expression of an architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib. At least one of those elements shall repeat horizontally at an interval of no more than 30 feet.
- c) Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60% of their horizontal length.

2. Parapets. Each primary structure with a flat roof shall have parapets or enclosures concealing flat roofs and rooftop equipment from public view, and such parapets and enclosures shall be constructed of materials that match the building in quality and detail. Each such parapet or enclosure shall have an average height of no more than 15% of the height of the supporting wall, a maximum height at any point equal to 33% of the height of the supporting wall.

3. Building Entryways. Each single-story retail building shall have highly visible customer entrances featuring a combination of at least two of the following elements:



**Figure 6-9: Large Retail Establishments**

- a) Roof overhangs, raised cornice parapets, or peaked roof forms;
- b) Recessed or projecting wall sections;

- c) Arcades or arches;
- d) Outdoor patios;
- e) Display windows;
- f) Architectural details such as tile work and moldings integrated into the building structure; or
- g) Integral planters or wing walls that incorporate landscaped areas and/or seating areas.

4. Pedestrian Access and Circulation.

- a) All primary structures shall provide direct sidewalk connections (a) from each primary structure entrance used by residents, employees, or the public to external sidewalks, (b) between each primary structure in the development, (c) to sidewalks on adjacent properties, and (d) to all existing or planned transit stop or park-n-ride locations identified by the public transit authority.
- b) For proposed development that will include parking areas that extend more than 250 feet from the primary structure, the developments shall provide a designated walkway from the row of parking furthest from the primary structure to a primary structure entrance used by residents, employees, or the public, or to a sidewalk leading to such entrance. Such walkways shall be distinguished from surrounding parking areas by changes in color or texture, raised surfaces, or landscaped edges.
- c) All development shall provide (a) a walkway at least six feet wide extending across the front of each primary structure, and (b) weather protection features such as awnings or arcades at each entrance used by residents, employees, or the public.

5. Site Layout, Auto Access, and Parking.

- a) At least 50% of off-street parking shall be located behind or at the sides of primary structures (rather than between the front of primary buildings and the street) or within structured parking.
- b) Driveways shall be consolidated to the greatest degree possible to reduce the number of sidewalk/driveway crossing points.
- c) Short-term (public), and long-term (resident and employee) parking shall be clearly signed, and short-term parking areas shall generally be located closer to the primary public entrances to primary structures.

C. Downtown Design Standards and Guidelines. **[Amended 7-16-2012 by Ord. No. 1897]**

- (1) The Downtown Design Standards and Guidelines (Standards & Guidelines) are adopted and incorporated into this ordinance by reference. All development in the geographic boundary area defined in Subsection C(2) shall follow those design and development regulations set forth in the Standards & Guidelines.
- (2) The Standards & Guidelines apply to all buildings, structures, properties and uses in the same geographic boundary area to which the City of Kalamazoo Downtown Development Authority applies (Such area is identified as DDA District and is further depicted in the City of Kalamazoo Zoning Code, under § 2.3G.), and also apply to all buildings, structures, properties and uses in the Southtown Design Review District, except structures solely used as single-family residential structures, duplex homes, and multifamily residential structures. The Southtown Design Review District is defined as all parcels bordered by E. Walnut Street to the north, Portage Street to the east, Stockbridge Avenue to the south, and S. Burdick Street to the west. The Standards & Guidelines apply to those buildings, structures, properties and uses on both sides of the streets that represent the boundaries of the DDA District and the boundaries of the Southtown Design Review District. **[Amended 2-16-2015 by Ord. No. 1932]**

- § 6.5 (3) Before any building, structure or property located in the DDA District or the Southtown Design Review District is constructed, developed, renovated or rehabilitated, the property owner, or the builder, contractor, developer or person or entity performing the work, shall submit to the City Planner, including the City Planner's duly designated representative(s), the proposal for the project. An Administrative Review Committee (ARC), consisting of staff designated from both the City of Kalamazoo and Downtown Development Authority, is established. After the project proposal is submitted to the City Planner, the ARC shall review such project and assign it as either a Tier I or Tier II project, as set forth in the Standards & Guidelines. A Downtown Design Review Committee (DDRC), as established under § 11.5 of the Zoning Ordinance, shall review projects assigned to Tier II. Once a tier level has been assigned to a project, the review shall follow the steps as outlined in the Standards & Guidelines. For those projects assigned to Tier II that require site plan review, the final review of the project by the Site Plan Review Committee shall follow the process outlined in § 11.4 of the Zoning Ordinance that is consistent with the Standards & Guidelines. **[Amended 2-16-2015 by Ord. No. 1932]**
- (4) By resolution, the City Commission may amend the Standards & Guidelines, including the makeup of the ARC and DDRC Review Committees. Before the City Commission adopts any proposed amendments to the Standards & Guidelines, the City of Kalamazoo Planning Commission shall first review them and report its comments and recommendations to the Commission.
- (5) Copies of the Standards & Guidelines shall be made available or accessible to the public at the City Clerk's office, at the Department of Community Planning and Development, or through the City of Kalamazoo website.

#### **§ 6.6. Operational Performance Standards.**

All structures, uses, and activities in all zone districts shall be used or occupied so as to avoid creating any dangerous, injurious, noxious or otherwise objectionable condition that would create adverse impacts on the residents, employees, or visitors on the property itself or on neighboring properties.

- A. Glare. Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.
- B. Noise. All activities shall be conducted so as to avoid the creation of any noise that would create a public nuisance or a nuisance interfering with the use and enjoyment of adjacent properties. Any amplified sound equipment shall be mounted so as to direct sounds inward from properties, rather than outward towards property boundaries. Amplified sounds shall not be generated or allowed to cross property lines for the purpose of attracting the attention of the public unless a public temporary use permit has been issued for such use of the property. All activities shall be conducted to comply with Chapter 21 of the Kalamazoo Code of Ordinances.
- C. Nuclear Radiation. Research operations shall cause no dangerous radiation at any property line as specified by the regulations of the United States Nuclear Regulatory Commission.
- D. Electromagnetic Radiation. It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes that does not comply with the then current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. However, in case of governmental communications facilities, governmental agencies, and government owned plants, the regulations of the interdepartmental Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission, regarding such sources of electromagnetic radiation.
- E. Vibration. Operations shall cause no inherent and recurring generated vibration perceptible without instruments at any point along the property line. Temporary construction is excluded from this restriction.



- § 6.6
- F. Fire and Explosive Materials. The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the state rules and regulations as established by Public Act No. 207 of 1941, as amended.<sup>203</sup> Explosives where the primary purpose is for combustion as defined in Explosive Act of 1970, as amended,<sup>204</sup> shall be prohibited on site. § 6.6
- G. Hazardous Materials. All applicable federal, state, and local statutes, rules, regulations, and ordinances (including, without limitation, those promulgated and/or enforced by the U.S. Environmental Protection Agency, the Michigan Department of Environmental Quality, the Michigan Department of Natural Resources, the National Institute of Health, or the Food and Drug Administration) shall apply to the treatment, storage, transportation, and disposal of any hazardous materials, hazardous wastes, or solid wastes (as such terms are defined by any of the applicable statutes, rules, regulations, or ordinances referenced above).
- H. Materials and Waste Handling. No person shall cause or permit any materials to be handled, transported, or stored in a manner that allows particulate matter to become airborne or liquid matter to drain onto or into the ground. All materials or wastes that might cause fumes or dust or that constitute a fire hazard or that may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed, impermeable trash containers that are screened in accordance with the requirements of this Code. Toxic and hazardous materials and chemicals shall be stored, secured and maintained so that there is no contamination of ground, air, or water sources at or adjacent to the site. Provisions shall be provided so that all lubrication and fuel substances shall be prevented from leaking and/or draining onto the property. All treatment, storage, disposal, or transportation of hazardous waste shall be in conformance with all federal and state statutes, codes and regulations. All sewage and industrial wastes shall be treated and disposed of in such a manner as to comply with the water quality standards applicable to the classification assigned to the receiving water by the City, the State of Michigan, and the U.S.E.P.A.
- I. Smoke Emissions. There shall not be discharged into the atmosphere any contaminant for which threshold limit values are listed for working atmosphere by the American Conference of Governmental Industrial Hygienists in such quantity that the concentration of the contaminant at ground level at any point beyond the boundary of the property shall at any time exceed the threshold limit established by such conference or by any state or federal law or regulation. Visible emissions of any kind at ground level past the lot line of the property on which the source of the emissions is located are prohibited.
- J. Odor Emissions. No operation shall cause or allow the emission of any odorous air contaminant that is a nuisance, hazard or exceeds appropriate federal or state regulations. The measurement of the threshold odor shall be in accordance with the American Society for Testing Materials Method D1391-57 "Standards Method for Measurement of Odor in Atmosphere (Dilution Method)" (Philadelphia American Society of Testing Materials, 1957). Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.
- K. Particle Emissions. The emission of particulate matter or dusts in an amount sufficient to create a general nuisance to adjoining properties is prohibited. Total emission of particulate matter shall be limited to the following:
1. Requirement for All Zone Districts Except M-2 Zone District. Solid or liquid particles shall not be emitted at any point in concentration exceeding 0.1 grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500° F. and 50% excess air. Measurement shall be at the point of emission.
  2. Requirement for M-2 District. The Ringelmann Smoke Chart published by the United States Bureau of Mines shall be used for measurement. All emission of particulate matter in quantities sufficient to

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203. Editor's Note: See MCLA § 29.1 et seq.

204. Editor's Note: See MCLA § 29.41 et seq.

- § 6.6 produce an opacity at any point greater than Ringelmann 3 is prohibited. The only exception shall be a plume consisting entirely of condensed steam. A Ringelmann 1 unit is defined as 20% density for one minute. No more than 15 units of Ringelmann smoke shall be permitted per hour and no smoke more intense than Ringelmann 2, except that during one hour of a twenty-four-hour day, 30 units of smoke may be emitted but with no smoke more intense than Ringelmann 3. The total quantity of emitted solids shall not exceed one pound per hour, per acre of lot area. Measurement shall be at the point of emission. § 6.6
- L. Height of Stored Materials. Except in the M-2 zone district, all objects stored within an allowable outdoor storage area may not exceed the height of any required screen fence.
- M. Nuisance Prohibited. All structures and land uses within the City shall be constructed, used, operated, and maintained in such a manner so as to be free of nuisances, as defined in Michigan law.

CHAPTER 7  
Signs

**§ 7.1. Purpose.**

The purpose of this chapter is to regulate signs and outdoor advertising in a manner that will minimize their harmful effects while permitting latitude for creative and effective advertising and identification. To achieve this purpose, this chapter has the following objectives:

- A. To prevent the number of signs and sign messages from exceeding a level reasonably necessary to identify businesses and their products;
- B. To prevent the placement of signs in a manner that will conceal or obscure signs or adjacent buildings;
- C. To keep signs within a reasonable scale with respect to their surroundings;
- D. To prevent off-premises signs from conflicting with business, residential and other uses;
- E. To keep the areas adjacent to streets clear of signs that might obstruct the view and/or distract the attention of motorists;
- F. To ensure that the number, size and location of signs do not create a negative impact on the image or aesthetic environment of the City;
- G. To control the use of signs and their motion, colors, and illumination that may negatively affect property values and may be injurious to the mental or physical well being of the public.

**§ 7.2. Applicability.**

- A. General. This chapter applies to the erection, alteration, and maintenance of all signs in the City, unless specifically exempted pursuant to § 7.2B: Exemptions.
- B. Signs Not Requiring a Permit. The erection, alteration, and maintenance of those signs listed in Subsection 2 of § 7.3A: Residential Zone Districts and Subsection 5 of § 7.3B: Nonresidential Zone Districts shall not require the issuance of a sign permit.
- C. Permits Required. Prior to the erection or alteration of any sign subject to the requirements of this chapter and not listed in Subsection 2 of § 7.3A: Residential Zone Districts or Subsection 5 of § 7.3B: Nonresidential Zone Districts, a sign permit shall be approved or disapproved pursuant to § 8.3I: Sign Permit. Replacing the sign face on any nonchangeable copy sign, or any other alteration of an existing sign structure requires a sign permit.
- D. Changeable Copy Signs. Up to 25% of the sign face area of any permitted permanent freestanding sign or wall sign, and up to 75% of the sign face area of a marquee sign, may be made up of changeable copy area. Revising the message on a changeable copy sign shall not require a sign permit.
- E. Temporary/Portable Signs. Temporary/portable signs may be erected on private property in Commercial, Manufacturing, or Special Purpose Zone Districts, and on any site in a residential zone district that contains a multifamily or nonresidential use, for a maximum of four weeks during any calendar year. Unless more specific standards are stated in Subsection 2 of § 7.3A: Residential Zone Districts or Subsection 5 of § 7.3B: Nonresidential Zone Districts, temporary/portable signs shall be subject to the same restrictions on size, height, and distance from the right-of-way applicable to permanent signs on the site. Trailers with message boards and trailers used as signs shall be treated as temporary/portable signs, and may not be installed as permanent signage.
- F. Signs on Public Property. No permanent or temporary/portable sign of any type may be erected or moved

§ 7.2 onto public property without written approval from the City, except that sandwich board signs with a sign face area of no more than eight square feet per side may be used on public property in the CCBD zone district. Prior to the use of a sandwich board sign on public property in the CCBD zone district, an encroachment permit must be obtained from the City of Kalamazoo and must be consistent with the Kalamazoo Downtown Design Guidelines. § 7.3

- G. Prohibited Signs. Roof signs are prohibited in all zone districts. Projecting signs are prohibited in all districts except the CCBD, CBTR, M-1, and M-2 zone districts.
- H. Compliance With Applicable Codes Required. In addition to complying with the provisions of this chapter 7, all signs requiring the issuance of a sign permit shall be required to comply with all applicable codes. Violations of those provisions of state law shall be a violation of this Ordinance, and shall be subject to enforcement pursuant to Chapter 10: Violations, Penalties and Enforcement.

**§ 7.3. On-Premises Signs.**

All on-premises signs shall comply with the following standards.

- A. Residential Zoning Districts. Within Residential zone districts, all on-premises signs for both residential and nonresidential uses shall be erected, altered and maintained in compliance with the standards and requirements in Table 7.3-1: On-Premises Signs in Residential Districts.
  - 1. General.

Use Type	Signs Allowed	Maximum Area (square feet)	Maximum Height (feet)	Maximum Height Above Main Entrance Elevation	Minimum Distance from Property Line (feet)
One- and two-family dwellings	One nameplate that indicates the name and address of occupants	2	N/A	N/A	N/A
Multifamily dwellings, roominghouses, sorority and fraternity houses	One identification sign per street frontage	32	Free-standing: 6	N/A	Freestanding: 10
	One sign per building	4	N/A	Wall: 8	N/A
Subdivision, mobile home park, or special use	One subdivision sign may be located at each entrance road to a subdivision One park identification sign may be located at each entrance to a mobile home park One identification sign may be located on each street frontage of an approved special use Sign may be indirectly or internally illuminated	32	6	N/A	5 from right-of-way, and 10 from other property lines

- 2. No Sign Permit Required. The following types of signs are permitted without a sign permit, subject to the following requirements. Applicants for signs included in the following list that cannot meet the stated requirements (for example, where a larger size sign is needed) shall be required to obtain a sign permit pursuant to § 8.3I: Sign Permit.
  - a) Construction Signs. One nonilluminated construction sign on each street frontage of a site being

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developed or improved. Construction signs shall not exceed six square feet in area if related to the construction of single-family or two-family dwellings and shall not exceed 32 square feet in area if associated with other permitted uses, shall not exceed 12 feet in height, and shall be located at least five feet from the right-of-way and 10 feet from any other property line.

- b) Real Estate Signs. One nonilluminated real estate sign on each street frontage of the site, not exceeding six square feet in area or six feet in height. The nonilluminated real estate sign may be located in the setback area but shall not be placed or project into the public right-of-way. The nonilluminated real estate sign shall be removed within 30 days after the sale or lease of the property on which it is located.
- c) "Open House" Directional Signs. One nonilluminated "open-house" directional sign on each street frontage of a site, not exceeding six square feet in area and four feet in height. The nonilluminated "open-house" directional sign shall only be permitted on the day of the open house and shall not be placed in and shall not project into the public right-of-way.
- d) Election Campaign Signs. Election campaign signs not exceeding 4 1/2 square feet in area that are not placed in and do not project into the public right-of-way. Election campaign signs shall be removed within 30 days following the election for which they are used.
- e) Temporary Event. One nonilluminated sign in connection with a permitted temporary event conducted by any nonresidential use permitted in the district, not exceeding 30 square feet in area, that is not placed in and does not project into the public right-of-way. Temporary event signs shall be for a period not exceeding 14 calendar days, two times a year, and shall be removed within two days following the event for which they are used.
- f) Holiday Displays. Holiday displays of any size that are not placed in and do not project into the public right-of-way, provided that such displays do not contain advertising. **[Amended 3-19-2007 by Ord. No. 1822]**
- g) Yard Sale Signs. One nonilluminated yard sale sign not exceeding 4 1/2 square feet in area, that is not placed in and does not project into the public right-of-way, may be erected up to two times each calendar year.

## B. Nonresidential Districts.

- 1. Nonresidential Uses. All on-premises signs erected, altered, and maintained at a business development (one or more uses within a building or buildings using common parking facilities) in the nonresidential districts shall comply with the standards in Table 7.3-2: On-Premises Signs in Nonresidential Districts. Additional provisions related to Grand Opening/Change of Business Signs and Temporary Event Signs are set forth in § 7.3B.3: General Provisions and § 7.3B.5: No Sign Permit Required.
- 2. Residential Uses in Nonresidential Districts. All on-premises signs erected, altered, and maintained on residential uses in all nonresidential districts shall comply with the standards and requirements in Table 7.3-1: On-Premises Signs in Residential Zoning Districts.
- 3. General Provisions.

**Table 7.3-2: On-Premises Signs in Nonresidential Districts**  
**[Amended 3-19-2007 by Ord. No. 1822; 6-6-2022 by Ord. No. 2049]**

Freestanding Signs	Wall Signs, Marquees <sup>1</sup> , Canopies, and Awnings	Other Signs
<b>CNO, RMU, P, IC Districts</b>		
Number: 1 freestanding sign on each street frontage Maximum Area: 24 square feet Maximum Height: 12 feet Minimum Distance From Property Line: 10 feet	Maximum Area: 10 square feet per establishment	Freeway Signs: not allowed Special Use Signs: Subject to Planning Commission review (§ 8.3D)
<b>CO, CN-2, CN-1, CMU and PUD-O Districts</b>		
Number: 1 freestanding sign on each street frontage Maximum Area: 1/2 square foot of sign area for each foot of street frontage, up to maximum of 100 square feet. In addition, each individual establishment may have one additional freestanding sign for every additional 150 feet of street frontage, not exceeding 100 square feet in area. Maximum Height: 20 feet Minimum Distance From Property Line: 2 feet	Maximum Area: For each individual establishment, 1 square foot of sign area for each foot of wall length	Freeway Signs: not allowed
<b>CCBD District</b>		
Number: 1 freestanding sign allowed on each street frontage Maximum Area: 1 square foot of sign area for each foot of street frontage, up to maximum of 150 square feet. In addition, each individual establishment may have one additional freestanding sign for every additional 150 feet of street frontage not exceeding 150 square feet in area Maximum Height: 25 feet Minimum Distance From Property Line: 2 feet Rotation: Freestanding signs may rotate up to 15 revolutions per minute	Maximum Area: For each individual establishment, 2 square feet of sign area is allowed for each 1 foot of wall length; no single wall sign shall exceed 200 square feet on a site In the CCBD district, buildings over four stories in height are allowed to have an additional amount of wall signage equal to no more than 5% of the total area of each building facade that faces a public street. The additional wall signage must be located on the street facing facade. No single wall sign shall exceed 200 square feet	Freeway Signs: not allowed Special Use Signs: Subject to Planning Commission review (§ 8.3D)
<b>CBTR, M-1, and M-2 Districts</b>		
Same as CCBD district For the CBTR district, freestanding signs shall not exceed eight feet in height and may not rotate	Same as CCBD district	Freeway Signs: Number: For a lot with a property line within 200 feet of freeway or freeway interchange, 1 additional on-premises freestanding sign Maximum Area: 150 square feet per side. Maximum Height: 80 feet Minimum Distance from Property Line: 10 feet Orientation: Sign faces shall be oriented to primarily attract vehicular traffic from freeway

**NOTE:**

1. An encroachment permit is required for all marquee, canopy, or awnings extending over a public right-of-way. Marquee, canopy or awning signs may be located on a building marquee, canopy or awning that is located over a sidewalk located in the public ROW, provided the marquee, canopy or awning does not extend more than eight feet over the ROW, is closer than three feet to the curbline, and is not less than eight feet, at its lowest point, above sidewalk level. In no event shall a marquee sign extend above the peak of the roof of the building to which it is affixed.
4. Variations. In the case of proposed development in the P, IC, or PUD-O zone districts, the decisionmaking body responsible for approval of the site plan, Institutional Master Plan, or PUD Plan, as applicable, may approve modifications to the standards in Table 7.3-2, provided that (a) no such modification has the effect of increasing the number of signs, the total sign area, or the height of any sign by more than 25%, and (b) any such modification shall meet the same standards for approval applicable to the proposed development as a whole. **[Amended 3-19-2007 by Ord. No. 1822]**
5. No Sign Permit Required. The following types of on-premises signs are allowed in the nonresidential districts without a sign permit, subject to the following requirements.
  - a) Construction Signs. One nonilluminated construction sign is permitted on each street frontage of a site being developed or improved. Such sign (i) shall not exceed 32 square feet; (ii) shall not exceed 12 feet in height, and (iii) shall be located at least two feet from any right-of-way.
  - b) Real Estate Signs. One nonilluminated real estate sign is permitted on each street frontage of a site. Such sign (i) shall not exceed 24 square feet in area if located in a Commercial or Special Purpose District or 32 square feet if located in a Manufacturing District; (ii) shall not project into the public right-of-way, and (iii) shall be removed within 30 days after the sale or lease of the property on which it is located.
  - c) "Open House" Directional Signs. One nonilluminated "open-house" directional sign is permitted on each street frontage of a site, not exceeding six square feet in area and four feet in height. Such sign shall only be permitted on the day of the open house and shall not be placed or not project into the public right-of-way.
  - d) Election Campaign Signs. Election campaign signs are permitted. Such signs (i) shall not exceed six square feet in area when located in the nonresidential districts; (ii) shall not be placed in and shall not project into the public right-of-way; and (iii) shall be removed within 30 days following the election for which they are used. **[Amended 3-19-2007 by Ord. No. 1822]**
  - e) Holiday Displays. Holiday displays of any size that are not placed in and do not project into the public right-of-way, provided that such displays to not contain advertising.
  - f) Directional Signs. Signs providing directions and other related information for a site shall be allowed. One such sign shall be allowed for each parking lot or parking structure entrance, and each building entrance. Such signs shall not be greater than four square feet in area and four feet in height, and they may be internally illuminated. They must be placed a minimum of two feet from all right-of-way lines, and cannot obstruct traffic or otherwise create a hazard. The name and/or logo of the business or entity may be identified on the sign, but such name/logo shall not occupy more than 1/3 of the copy area. **[Added 3-19-2007 by Ord. No. 1822]**
6. Special Signs. **[Amended 3-19-2007 by Ord. No. 1822]**
  - a) Special Event Signs.
    - 1) Business special event signs shall be permitted for each business for a period not exceeding a maximum of 28 calendar days per year.

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- 2) Each business is allowed a maximum of 100 square feet of temporary/portable sign area. each sign shall not exceed 30 square feet in area, including portable signs.
  - 3) One cold air or helium-inflatable balloon may be used for not more than 14 calendar days, two times a year, subject to the following conditions: (i) said balloon shall not exceed 40 feet in height and shall be set back from any property line one foot for every one foot of height; (ii) said balloon shall be ground-installed; (iii) said balloon may be illuminated from inside or by exterior lights placed to direct the light source away from adjacent roadways or properties; (iv) flashing, colored, or glaring lights shall not be permitted; and (v) the balloon shall be installed so as not to interfere with utility lines, traffic circulation, visibility of drivers or fire lanes.
- b) Grand Opening/Change of Business Signs. Signs are permitted for a grand opening of a new business or for a change in tenancy or ownership of an existing business for a period not to exceed 14 calendar days. Each business shall be allowed a maximum of 100 square feet of sign area; however, each sign shall not exceed 30 square feet in area; and, if freestanding, said sign shall not exceed 12 feet in height. Portable signs for a grand opening or change-of-business signs shall not exceed 30 square feet in area. All such signs shall be set back at least two feet from all property lines. Additionally, one cold air or helium-inflatable balloon may be used, subject to the preceding standards.

**§ 7.4. Off-Premises Signs. [Amended 8-19-2013 by Ord. No. 1912]**

- A. Limitation on Number of Off-Premises Sign Structures in the City. No new off-premises sign structure shall be erected when there are 99 or more off-premises sign structures in the City. This limitation is based on the number of potential sign locations and the existing number of conforming sign structures as of the date of the original enactment of this section, September 21, 1987. As of October 18, 2005, there are more than 99 off-premises sign structures in the City, and no new off-premises signs may be erected. All replacements of existing off-premises signs shall comply with all applicable provisions of this chapter 7.
- B. General. Off-premises signs shall be permitted only in the M-1 and M-2 Districts and shall comply with all the standards in § 7.4, Off-Premises Signs, including, without limitation, those standards in Table 7.4-1: Off-Premises Signs. Off-premises signs that comply with the standards in § 7.4A shall be permitted in the CCBD District. **[Amended 6-6-2022 by Ord. No. 2049]**

Zone District	Maximum Area (square feet)	Minimum Distance Between Off-Premises Signs	Double-Faced Signs Permitted	Side-by-Side Signs Permitted	Maximum Height (feet)
M-1 District	380 (672 if located along I-94)	On same side of street: 1,000 feet On opposite sides of the street: 500 feet	Yes	Yes, only along I-94 (not BL-94) Maximum square footage per sign face: 300	35
M-2 District	672	On same side of the street: 1,000 feet On opposite sides of the street: 500 feet	Yes	Yes, but only when located on the opposite side and parallel to a single 672-square-foot sign face	40
		(Distance shall be measured from the closest edge of each off-premises sign)		Maximum square footage per sign face: 300	



- § 7.4
- C. Intersections. Off-premises signs shall not be permitted within a one-hundred-foot radius of public street intersections as measured from the center point of the intersection of each street to the closest edge of the sign. A distance of 500 feet shall be maintained between all signs at an intersection. § 7.4A
- D. Setback Requirements. Off-premises signs shall comply with the setback standards in the zoning districts in which they are allowed. (See Chapter 5.)
- E. Placement Requirements.
1. Buildings. Off-premises signs shall not be located on the roofs of buildings or be attached to or painted on the walls of buildings.
  2. No Stacking. Off-premises signs shall not be stacked on top of each other.
- F. Radius Requirements. Off-premises signs shall not be permitted within a three-hundred foot radius of residential districts, cemeteries, and dedicated parks.
- G. No Off-Premises Signs in Local Historic Districts. Off-premises signs shall not be permitted in established and designated local historic districts.
- H. Sign Protrusions. No part of the advertising copy for a sign shall protrude beyond the sign frame.

**§ 7.4A. Off-Premises Internally Illuminated Automatic Changeable Copy Signs. [Added 8-19-2013 by Ord. No. 1912]**

- A. The following regulations governing internally illuminated automatic changeable copy off-premises signs within the City are enacted in order to create clear guidelines for businesses, balance the commercial interests in such signs with neighborhood quality of life where such signs are, or may be located, maintain residential neighborhoods, generally reduce the overall number and impact of billboard advertising in the City and positively affect traffic safety, community aesthetics, and environmental conditions.
- B. To achieve and further these purposes, any internally illuminated, automatic changeable copy signs, such as, but not limited to, signs using LED technology, are permitted as a lawful conforming off-premises sign in compliance with the following requirements:
1. Location. Such signs shall only be located in CCBD, M-1, and M-2 zoning districts when: **[Amended 6-6-2022 by Ord. No. 2049]**
    - (a) Located on sites where an off-premises sign that is 200 square feet or more existed as of July 1, 2013, that is adjacent to state or federally controlled roads; and
    - (b) More than 300 feet away from a residential zoning district, except on West Main Street from Northampton Road west to the City limits if more than 100 feet away from a preexisting residential use; and
    - (c) Whose sign face area does not exceed that of the static sign face or faces being replaced; and is not less than 2,500 feet from another off-premises internally illuminated automatic changeable copy sign.
  2. Sign Support Structure Elimination Credits.
    - (a) Notwithstanding the total number of off-premises signs located in the City, so as to reduce the overall number of nonconforming off-premises signs, the erection of, installation of, or upgrade of a static display or manual changeable copy sign to an off-premises internally illuminated automatic changeable copy sign shall require the elimination of existing nonconforming off-premises signs within the City. The installation, erection or upgrade of any existing sign to an internally illuminated automatic changeable copy sign shall require the sign owner to secure six sign support

## § 7.4A

structure elimination credits.

- (b) The elimination of an off-premises sign support structure in an R, CO, CN-1, or CCBD zoning district shall count for two credits; elimination of an off-premises sign support structure in all other zoning districts shall count as one credit. Only whole numbers shall be applied to credits used to erect, install or upgrade an off-premises automatic changeable copy sign, and any credits more than the amount required to qualify for the erection of, installation of, or upgrade of a static display or manual changeable copy sign to an off-premises internally illuminated automatic changeable copy sign shall not be available for future use.
- (c) In order to qualify for an elimination credit, the off-premises sign support structure shall be completely removed and the property site returned to as good or better condition as existed before the sign support structure was installed.

C. General Requirements. Except as otherwise provided in this section, the requirements set forth in § 7.4 are applicable to internally illuminated off-premises signs.

- 1. Sign face images shall not change more often than once every 10 seconds. As used in this section, change shall preclude any method of message transition, involving the use of animation, dissolving, or fading, flashing techniques. In the event of a mechanical failure, the sign image shall default to a static display.
- 2. Sign faces permitted by this subsection may be placed back to back, but shall not be placed side by side or stacked.
- 3. The luminance of an internally illuminated off-premises automatic changeable copy sign shall utilize dimming capabilities so that the maximum luminescence of the sign shall not exceed 0.2 footcandles over ambient light conditions when measured at a height of five feet facing the sign face at a distance of 200 feet.
- 4. Signs permitted by this subsection shall not be equipped to transmit sound or other forms of broadcast signals.

D. After July 1, 2013, no more than eight additional internally illuminated off-premises automatic changeable copy sign structures shall be permitted in the City.

**§ 7.5. Illumination of On-Premises and Off-Premises Signs. [Amended 8-19-2013 by Ord. No. 1912]**

- A. External Lighting Directed Inward and Shielded from Adjacent Residential Districts and Rights-of-Way. Any external lighting intended for the illumination of the face of a sign shall be directed inward and shielded from any adjacent residential districts and public right-of-way, and shall not adversely affect driver visibility or adjacent public thoroughfares. No external light source intended to illuminate the face of a sign shall be directly visible from any adjacent property located within a residential zone district and public right-of way.
- B. Blinking or Flashing Lights. On-premises signs displaying blinking or flashing lights are only permitted within the CCBD zoning district, and shall be limited as follows: **[Amended 6-6-2022 by Ord. No. 2049]**
  - 1. No light shall blink, flash, or change its intensity or color more often than one time every 10 seconds.
  - 2. If a sign displays images or messages that change automatically, each image on such sign that is visible from a public street shall remain unchanged and unmoving for a minimum of eight seconds before changing. A sign that displays text messages in a continuous scrolling movement (e.g., ticker-type signs) is exempt from this provision.
- C. No Beacon or Strobe Lights. Beacon lights and strobe lights are not permitted.

- § 7.5
- D. Colored Lights. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic-control devices. § 7.6
- E. No Traffic Hazard. Neither the direct nor reflected light from light sources shall create a traffic hazard to operators of motor vehicles on public rights-of-way.
- F. Automatic changeable copy signs utilizing external lighting directed toward the sign face shall not change images more often than once every 10 seconds.

**§ 7.6. Murals. [Added 6-29-2009 by Ord. No. 1854]**

All murals shall comply with the following standards:

- A. Zoning Districts. A mural of 1,000 square feet or less is permitted in all zoning districts. Any mural more than 1,000 square feet is only permitted in the CCBD Commercial Central Business District, or in the M-1 or M-2 Manufacturing Districts.
- B. Permission of Owner. If the owner of the building or structure on which the mural is placed is not the occupant of such building or structure, the person who leases or otherwise has the right to occupy such building or structure shall obtain the prior written permission of the owner to place the mural on the building or structure. Such lessee or other person with the right of occupancy shall provide a copy of the letter to the City Planner if requested.
- C. Permit Required. A mural that is produced off-site and affixed in a structurally sound and workmanlike manner on the exterior wall and that is larger than 200 square feet shall require a permit under the provisions of § 8.3I, Sign Permit.
- D. Windows, Doors and Other Architectural Features. No mural shall obstruct any window, door or architectural feature of the exterior wall on which the mural is placed.
- E. Additional Standards. Murals more than 1,000 square feet shall also comply with these additional standards:
- (1) The person who commissioned or who has a proprietary interest in a mural that is produced off-site and affixed in a structurally sound and workmanlike manner and the owner, lessee or person having the right to occupy the building or structure on which such mural is placed shall maintain public liability insurance of not less than \$1,000,000 and list the City, its employees, Commissioners and officials as additional insureds. A certificate of such insurance shall be provided with the application for a permit and annually thereafter. Failure to maintain such insurance shall result in a revocation of the permit to allow such mural and shall further require the prompt removal of the mural. If not removed within 30 days, the City shall have the right to remove the mural and place a lien against the real property (enforced in the same manner as delinquent property taxes) for the cost incurred in removing the mural if such costs are not paid prior to when delinquent taxes are turned into the County of Kalamazoo.



CHAPTER 8  
**Review and Approval Procedures**

**§ 8.1. General Provisions.**

The general provisions of this chapter 8 shall apply to all applications for development approval and procedures under this Ordinance, unless otherwise stated.

- A. **Authority to File Applications.** Applications shall be submitted to the City Planner by the Community Planning and Development Department, the City Council or Planning Commission, or by the owner, or by any other person having a recognized interest in the land for which the development is proposed, or their authorized agent.
1. **Community Development Department as Applicant.** The authority of the Community Planning and Development Department to file an application pursuant to this Ordinance is limited to applications that may be required for activities or development on City-owned land.
  2. **Staff, City Council, or Planning Commission as Applicant.** The authority of the City Council or Planning Commission to file an application pursuant to this Ordinance is limited to (a) applications for Text Amendments pursuant to § 8.3A, (b) applications for Zone Map Amendments pursuant to § 8.3B, (c) applications for creation, amendment, or rezoning of Planned Unit Overlay (PUD-O) districts pursuant to § 8.3C.
  3. **Applicant is Not Owner.** If the applicant is not the owner of the land, or is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted. This provision does not apply to the submission of site plans, building permits, or sign permits.
  4. **Applicant is Not Sole Owner.** If the applicant is not the sole owner of the land, a letter signed by the other owners or an association representing the owners consenting to or joining in the application shall be submitted. This provision does not apply to the submission of site plans, building permits, or sign permits.
- B. **Application Submission Schedule.** The schedule for the submission of applications shall be established by the City Planner and made available to the public.
- C. **Application Contents.** Applications required under this Ordinance shall be submitted in a form established by the City Planner and made available to the public.
- D. **Simultaneous Processing of Applications.** Whenever two or more forms of review and approval are required under this Ordinance (e.g., a special use permit and a variance), the applications for those development approvals may, at the option of the City Planner, be processed simultaneously, so long as all applicable requirements are satisfied for both applications.
- E. **Fees.**
1. **Determination of Fees.** The City Commission shall determine by resolution the fees to accompany all applications submitted under this Ordinance. The City Commission may adjust fee amounts from time to time.
  2. **Fees to be Paid.** No application shall be processed until the established fee has been paid.
  3. **Refund of Fees.** Application fees are not refundable except where the City Planner determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.
- F. **Application Submission.** An application for development approval shall be submitted to the City Planner

§ 8.1 pursuant to the application submittal schedule (§ 8.1B: Application Submission Schedule) along with a fee established pursuant to § 8.1E, Fees. § 8.1

G. Determination of Sufficiency.

1. Determination of Sufficiency. Within seven days following receipt of the application, the City Planner shall determine if the application is complete, meets all relevant threshold requirements and includes data in sufficient detail to evaluate the application to determine whether it complies with the requirements of this Ordinance.
2. Determined Insufficient. If the City Planner determines the application is not sufficient, a notice shall be provided to the applicant specifying the application's deficiencies. When the application is determined sufficient, it shall be reviewed pursuant to the procedures and standards of this chapter. If the applicant fails to correct the deficiencies within 60 days, the application shall be considered withdrawn.

H. Scheduling of Public Hearing. When an application for development approval is subject to a public hearing (see § 8.1K.3, Timing of Notice, for when a public hearing is required), the City Planner shall ensure that the public hearing(s) on the application is scheduled for a regularly scheduled meeting or a meeting specially called for that purpose by the decision-making or advisory body reviewing the application. The public hearing(s) shall be scheduled so there is sufficient time for a Staff Report to be prepared and for the public notification requirements to be satisfied. **[Amended 6-20-2011 by Ord. No. 1884]**

I. Public Notification. All applications for development approval requiring public hearings shall comply with the Michigan Statutes, the table in § 8.1K.4: Timing of Notice, and the other provisions of this section with regard to public notification.

1. Content. All notices for public hearings, whether done by publication or mail (written notice) shall:
  - a) Identify Application. Identify the application and the name, address, and telephone number of the applicant or the applicant's agent.
  - b) Date, Time, and Place of Public Hearing. Indicate the date, time and place of the public hearing(s).
  - c) Location. Describe the land involved by street address or by legal description and nearest cross street, and area (size).
  - d) Describe Nature and Scope of Application. Describe the nature, scope, and purpose of the application or proposal.
  - e) Notify Public Where They May Be Heard. Include a statement stating that the public may appear at the public hearing, be heard and submit evidence and written comments with respect to the application.
  - f) Written Comments. Include a statement describing where written comments will be received prior to the public hearing.
2. Published Notice. When the provisions of this Ordinance require that notice be published, the City Planner shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation that has been selected by the City. The content and form of the published notice shall be consistent with the requirements of § 8.1I.1: Content, and state law.
3. Written (Mailed) Notice. **[Amended 3-19-2007 by Ord. No. 1822; 6-20-2011 by Ord. No. 1884]**
  - a) General. When the provisions of this Ordinance require that written or mailed notice be provided, the City Planner shall be responsible for preparing and mailing the written notice. Notice shall be mailed to:

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- 1) All property owners and occupants of the land subject to the application.
  - 2) All property owners, or persons to whom real property is assessed, and occupants of structures within 300 feet of the boundary of the land subject to the application. The notice to occupants is subject to the following exceptions:
    - (a) Notification need not be given to more than one occupant of a structure;
    - (b) If the structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice;
    - (c) If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure with instructions to post the notice at the primary entrance to the structure.
  - 3) All neighborhood organizations, public utility companies, railroads, and other persons who have requested to receive notice pursuant to § 8.1J, Registration to Receive Notice by Mail.
  - 4) For appeals of administrative decisions or requests seeking an interpretation of the Zoning Ordinance not involving a specific parcel of property, notice under § 8.1I.2 is sufficient.
  - 5) Failure to give proper notice shall not invalidate a proceeding unless mandated by state law.
- b) Notice by Mail/Affidavit. Notice shall be deemed given when deposited during normal business hours for delivery with the United States postal service or other private or public delivery service as first class or similar mail, properly addressed and postage or delivery service paid. The City Planner shall prepare a list of property owners and registrants to whom notice was mailed.
4. Timing of Notice. Unless otherwise provided in the Michigan statutes and laws or this Ordinance, notice shall be provided as shown in Table 8.1-1 below.

<b>Table 8.1-1. Timing of Notice</b> [Amended 3-19-2007 by Ord. No. 1822; 6-20-2011 by Ord. No. 1884]		
<b>Application for Development Approval or Permit</b>	<b>Notice Required (days before hearing/action)</b>	
	<b>Written (§ 8.1I3)</b>	<b>Published (§ 8.1I2)</b>
Text Amendment		Planning Commission: Not less than 15 days prior to public hearing
		City Commission: not less than 15 days prior to public hearing
Amendment to Zone District Map (Rezone)	Planning Commission: not less than 15 days prior to public hearing	Planning Commission: Not less than 15 days prior to public hearing
	City Commission: reasonable time prior to public hearing	City Commission: not less than 15 days prior to public hearing
Planned Unit Development District Classification	Not less than 15 days prior to public hearing	
Special Use Permit		
Variance		
Appeals to Zoning Board of Appeals		

**J. Registration to Receive Notice by Mail.**

- § 8.1
- § 8.1
1. General. Any neighborhood organization, public utility company, railroad or any other person may register with the City Clerk to receive written notice of all applications for development approval pursuant to § 8.11.3: Written (Mailed) Notice, or written notice of all applications for development approval within the zone district in which they are located. The City Clerk shall provide copies of these requests to the City Planner who shall be responsible for providing this notification.
  2. Requirements for Eligibility. To be eligible for registration, the requesting party must provide the City Clerk information in the form required by the City Clerk to ensure notification can be made. All persons that have been registered must reregister biannually to remain registered and continue to receive notification pursuant to this section.
- K. Deferral of Review of Application.
1. Submission of Request. An applicant may request that a decision-making or advisory bodies' consideration of an application at public hearing be deferred by submitting a written request for deferral to the City Planner.
  2. City Planner Review. The City Planner shall consider deferral requests of less than 30 days, and shall grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the City Planner.
  3. Decision-Making or Advisory Body Review. The decision-making or advisory body reviewing the application shall consider deferral requests of more than 30 days, or beyond the next regularly scheduled meeting of such body, and shall grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted by the decision-making or advisory board.
- L. Withdrawal of Application.
1. Submission of Application. Any request for withdrawal of an application shall be submitted in writing to the City Planner.
  2. Prior to Notice of Public Hearing. The City Planner shall approve a request for withdrawal of an application if it has been submitted prior to the time of a public hearing or decision on the application.
- M. Review of Applications by Advisory and Decision-Making Bodies.
1. Text Amendments, Amendments to Zone District Map (Rezoning) and Rezoning to Planned Development District Classifications.
    - a) Review and Recommendation by Planning Commission. After submission of an application for a text amendment, amendment to the Zone District Map or rezoning to Planned Unit Development Overlay (PUD-O) district classification, determination of its sufficiency, preparation of the Staff Report, and scheduling of the application for public hearing(s), the Planning Commission shall conduct a public hearing on the application pursuant to § 8.2: Public Hearing Procedures. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, and the public testimony and other evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, the Planning Commission shall make a recommendation to the City Commission recommending either to approve, approve with conditions (if appropriate) or disapprove the application based on the relevant review standards. The final report with the recommendation shall be forwarded to the City Commission.
    - b) Review and Action by City Commission.
      - 1) After receipt of the recommendation from the Planning Commission and the staff report, the scheduling of a public hearing and public notification, the City Commission shall conduct a



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public hearing on the application pursuant to § 8.2: Public Hearing Procedures. At the public hearing the City Commission shall consider the application, the relevant support materials, the staff report, the Planning Commission's recommendation, and the public testimony and other evidence given. Within a reasonable period of time after the close of the public hearing, the City Commission shall approve, approve with conditions (if appropriate) or disapprove the application based on the relevant review standards (See § 8.3B: Amendments to Text of Ordinance and Zone District Map, and § 8.3C: Planned Unit Development Overlay (PUD-O) District).

- 2) If a valid protest petition is filed against a proposed amendment to the Zone District Map (Rezoning) pursuant to MCLA § 125.584(5), as amended, the approval request shall not be approved except by a favorable vote of two-thirds of the City Commission membership.
- c) Notice of Adoption. Notice of the adoption of an amendment to the text of this Ordinance or the Zone District Map (Rezoning) shall be published in a newspaper of general circulation within 15 days after the date of adoption pursuant to MCLA § 125.584(7), as amended.
2. Special Use Permit (Review and Action by Planning Commission). After submission of an application for a special use permit, determination of its sufficiency, preparation of the Staff Report, public notification and the scheduling of the application for a public hearing, the Planning Commission shall conduct a public hearing on the application pursuant to the requirements of § 8.2: Public Hearing Procedures. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, and the public testimony and other evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, the Planning Commission shall either approve, approve with conditions or disapprove the application based on the relevant review standards (See § 8.3D: Special Use Permit).
3. Variance (Review and Action by Zoning Board of Appeals). After submission of an application for a variance, determination of its sufficiency, and scheduling of the application for a public hearing, the Zoning Board of Appeals shall conduct a public hearing on the application pursuant to the requirements of § 8.2: Public Hearing Procedures. At the public hearing, the Zoning Board of Appeals shall consider the application, the relevant support materials, and the public testimony and other evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, the Zoning Board of Appeals shall either approve, approve with conditions or disapprove the application based on the relevant review standards (See § 8.3E: Variances).
- N. Notification of Decision. Notification of a decision on an application for development approval shall be provided by the City Planner to the applicant by mail within 14 days after the decision. A copy of the decision shall also be made available to the public at the offices of the City Planner, during normal business hours.
- O. Rehearing of Applications.
  1. General. Whenever any application for development approval is disapproved, a similar application for all or a part of the same land shall not be considered for a period of one year after the date of disapproval unless a Waiver of Time Limit is approved by the decision-making body pursuant to the requirements of § 8.10.2: Waiver of Time Limit. Only one request for waiver of time limit may be submitted by the applicant during the one-year period.
  2. Waiver of Time Limit. The waiver of time limit shall be approved only upon a finding by two-thirds of the membership of the decision-making body that:
    - a) Substantial Change in Circumstances. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application; or

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- b) **New or Additional Information.** New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or
- c) **New Application Materially Different.** A new application is proposed to be submitted that is materially different from the prior application; or
- d) **Material Mistake of Fact.** The final decision on the application was based on a material mistake or omission of fact that, if known, would likely have resulted in a different determination.

P. **Examination and Copying of Application/Other Documents.** At any time upon reasonable request and during normal business hours, any person may examine an application, the Staff Report and materials submitted in support of or in opposition to an application in the office of the City Planner, subject to recognized exceptions under the Freedom of Information Act<sup>205</sup> or other state or federal law.

**§ 8.2. Public Hearing Procedures.**

All public hearings [amendments to the text and Zone District Map (rezoning); Planned Unit Development Overlay (PUD-O) District classifications (rezoning); special use permits; and variances] held pursuant to this Ordinance shall comply with the following procedures.

A. **Conduct of Public Hearing.**

- 1. **Burden of Proof or Persuasion.** The burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant. The burden is not on the City or other parties to show that the standards have not been met by the applicant.
- 2. **Rights of All Persons.** Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
- 3. **Exclusion of Testimony.** The body conducting the public hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial, or unduly repetitious.
- 4. **Offers of Testimony.** In the event any testimony or evidence is excluded as irrelevant, immaterial, or unduly repetitious, the person offering such testimony or evidence shall have an opportunity at that meeting to offer such testimony or evidence for the record. Such offer shall be made at the public hearing.
- 5. **Continuance of Public Hearing.**
  - a) **General.** The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.
  - b) **Notice.** A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this section, provided that the continuance is set for a date within 30 days, or to the next regularly scheduled meeting, and the date and time of the continued hearing is announced at the time of the continuance.
- 6. **Time.** The body conducting the hearing shall act in accord with any time limits established in this Ordinance. Action shall be taken as promptly as possible in consideration of the interests of the

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<sup>205</sup>Editor's Note: See MCLA § 15.231 et seq.

§ 8.2 applicant, the citizens of the City and the City, and shall include a statement of a recommendation or decision of approval or disapproval (whichever is appropriate). § 8.3

**§ 8.3. Specific Standards and Applications for Development Approval.**

A. General. The table below summarizes the development review procedures for all types of applications for development approvals and other permits outlined in this section.

Table 8.3-1 Development Review Procedures [Amended 3-19-2007 by Ord. No. 1822]						
Procedure	Review and Decision-Making Authority					Notices (Written, Newspaper)
	Staff	PC	ZBA	HO	CC	
Text Amendments (§ 8.3A)	R	<R>	—		<DM>	N
Zone District Map Amendments (§ 8.3B)	R	<R>	—		<DM>	W, N
Planned Unit Development District (§ 8.3C)	R	<R>	—		<DM>	W, N
Special Use Permit (§ 8.3D)	R	<DM>	—			W, N
Variance (§ 8.3E)	R	—	<DM>			W
Appeals of Administrative Decisions (§ 8.3F)	—	—	<DM>		—	W
Administrative Adjustments (§ 8.3G)	DM		<A>			—
Site Plan Review						
CBTR District (§ 8.3H)	R	DM				
All other districts (§ 8.3H)	DM (if delegated)	DM (if not delegated)				
Sign Permit (§ 8.3I)	DM	—	<A>			—
Temporary Use Permit (§ 8.3J)	DM	—	<A>			—
Certificate of Zoning Compliance (§ 8.3K)	DM					
Interpretations (§ 8.3L)	DM		<A>			
Beneficial Use Determinations (§ 8.3M)				R	<DM>	

**NOTES:**

- PC = Planning Commission
- ZBA = Zoning Board of Appeals
- HO = Hearing Officer
- CC = City Commission

**NOTES:**

- R = Review Body (Responsible for Review and Recommendation)
- DM = Decision-Making Body (Responsible for Final Decision to Approve or Deny)
- A = (Appellate) Authority to hear and decide appeals of Decision-Making Body's or Staff's action
- ◇ = Public Hearing Required
- N = Published Notice pursuant to § 8.112, Published Notice
- W = Written notice pursuant to § 8.113, Written (Mailed) Notice.

**B. Amendments to Text of Ordinance or Zone District Map (Rezoning)**

1. Purpose. The purpose of this section is to provide a means for amending the text of this Ordinance or making an amendment to the Zone District Map (Rezone).
2. Authority. The City Commission may adopt an ordinance amending the text of this Ordinance or amending the Zone District Map (Rezone) upon compliance with the provisions of this section.

3. Initiation.

- a) Amendment to the Text of This Ordinance. A petition to amend the text of this Ordinance may be initiated by the City Commission, the Planning Commission, City staff, an owner of property in the City, or a citizen of the City.
- b) Amendment to Zone District Map. A petition to amend the Zone District Map (Rezoning) may be initiated by the City Commission, the Planning Commission, City staff, or pursuant to § 8.1A: Authority to File Applications.



**Zone District Map Amendments  
(Includes PUD)**

- 4. Procedures. The procedures and requirements for a rezoning shall comply with the requirements of § 8.1, General Provisions.
- 5. Standards. The advisability of amending the text of this Ordinance or making an amendment to the Zone District Map (Rezoning) is a matter committed to the legislative discretion of the City Commission and is not controlled by any one factor. In considering a Zone District Map (Rezoning) amendment, the City Commission may adopt a change for only part of the area requested or for a less intense zone district than requested by the applicant. In determining whether to adopt or disapprove the proposed amendment, the City Commission shall consider the following factors:
  - a) Consistent With Comprehensive Plan. Whether and the extent to which the proposed amendment is consistent with the Comprehensive Plan.
  - b) Changed Conditions. Whether and the extent to which there are changed conditions that require an amendment.
  - c) Community Need. Whether and the extent to which the proposed amendment addresses a demonstrated community need.

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- d) Compatible With Surrounding Uses. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zone district for the land, or the proposed amendment to the text of this Ordinance will maintain or improve compatibility among uses and will ensure efficient development within the City.
- e) Development Patterns. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.

C. Planned Unit Development Overlay (PUD-O).

1. General. Proposed Planned Unit Development Overlay (PUD-O) zone district shall comply with all applicable requirement of § 3.4: Planned Unit Development Overlay (PUD-O) Zone District, and with this standards and criteria set forth in this § 8.3C.
2. General Applicability. Before any development shall be designated as a Planned Unit Development Overlay (PUD-O) zone district on the Zone District Map, it shall receive approval pursuant to the terms of this section.
3. Procedure.
  - a) Overview. A Planned Unit Development Overlay (PUD-O) District shall constitute an amendment to the Zone District Map. It shall be controlled by a PUD Plan and PUD Agreement that is approved as part of the Planned Unit Development Overlay (PUD-O) zone district classification. The procedure requires review and recommendation of approval, approval with conditions or disapproval by the Planning Commission and review and approval, approval with conditions or disapproval by the City Commission. Subsequent to development of a Planned Unit Development Overlay (PUD-O) district, a site plan shall be approved pursuant to § 8.3.H: Site Plan.
  - b) General. The procedures and requirements for a Planned Unit Development Overlay (PUD-O) district classification shall comply with the requirements of § 8.1: General Provisions.
4. Standards In approving a Planned Unit Development Overlay (PUD-O) zone district classification, the City Commission shall find the zone district designation and PUD Plan complies with the following standards:
  - a) Development Parameters.
    - 1) The proposed uses for the development may be varied from the permitted uses and special uses for the underlying base zone district identified in § 4.1: Use Table.
    - 2) The dimensional standards may vary from the requirements in § 5.1: Density/Intensity/ Dimensional Standards Table.
    - 3) The development is comprehensively planned and integrated, compact, and, where possible, linked by pedestrian ways to surrounding properties.
    - 4) The development is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties.
  - b) Signs. Signage complies with Chapter 7: Signs, except that signage standards may vary from Chapter 7: Signs, if a comprehensive sign plan for the proposed development is submitted that is determined to be suitable for the PUD Plan, and it is consistent with the intent and purpose of the sign regulations.
  - c) Public Facilities.
    - 1) The PUD Plan demonstrates a safe and adequate on-site transportation circulation system that

is integrated with the off-site transportation circulation system of the City.

- 2) The PUD Plan demonstrates a safe and adequate on-site system of potable water and wastewater lines that can accommodate the proposed development, that are efficiently integrated into off-site potable water and wastewater public improvement plans.
- 3) Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads is planned and programmed for the development proposed in the PUD Plan, and the development is conveniently located in relation to schools and police protection services.
- 4) The improvements standards applicable to the public facilities that will serve the site comply with the relevant City regulations. Provided, however, the development may deviate from the City's road standards so the development achieves greater efficiency of infrastructure design and installation through clustered or compact forms of development, when the following minimum design principles are followed:
  - (a) The circulation system is designed to provide safe, convenient access to all areas of the proposed development using the minimum practical roadway length. Access is provided by a public right-of-way, private vehicular or pedestrian way or a commonly owned easement. Internal pathways are provided to form a logical, safe and convenient system for pedestrian access to dwelling units and common areas, with appropriate linkages off-site.
  - (b) Roadways are designed to permit access by emergency vehicles to all lots and/or units. An access easement is granted for emergency vehicles and utility vehicles, as applicable, to use roadways in the development for the purpose of providing emergency services and for installation, maintenance and repair of utilities.
  - (c) Principal vehicular access points are designed to provide for smooth traffic flow, minimizing hazards to vehicular, pedestrian, or bicycle traffic. Where a PUD-O district abuts a major collector, arterial road, or highway, direct access to the road or highway from individual lots, units, or buildings is not permitted, unless specifically approved as part of the PUD-O district.
- d) Open Space. The development proposed in the PUD Plan complies with the following open space standards:
  - 1) A minimum of 35% of the gross land in the PUD Plan is reserved for common recreation and usable open space. Parking areas, street right-of-way and minimum yard setbacks shall not be counted when determining usable open space. Water bodies and floodplains that are preserved as open space shall count towards this minimum standard, even when they are not usable by or accessible to the residents of the development.
  - 2) All privately owned common open space shall continue to conform to its intended use, as specified in the PUD Plan. To ensure that all the common open space identified in the PUD Plan will be used as common open space, restrictions and/or covenants shall be placed in each deed to ensure their maintenance and to prohibit the partition of any common open space.
- e) Natural Resource and Environmental Protection. The PUD Plan complies with the current regulatory standards of this Ordinance and other relevant City, state and federal regulations related to natural resource and environmental protection.
- f) Phasing. The PUD Plan includes a phasing plan for the development, if appropriate, with specific build-out dates and the necessary components to insure protection of natural resources and the

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- health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. If development of the planned unit development is proposed to occur in phases, then guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents of the project, or that are of benefit to the City, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.
- g) Consistent With Comprehensive Plan. The PUD Plan is consistent with the City's Comprehensive Plan.
  - h) Complies With This Ordinance. The PUD Plan complies with all other relevant requirements of this Ordinance.
5. Conditions. The Planning Commission shall have the authority to recommend and the City Commission shall have the authority to impose such conditions on a Planned Development (PUD) Overlay zone district classification and PUD Plan that are necessary to accomplish the purposes of this Ordinance.
  6. Planned Unit Development (PUD) Agreement. Concurrent with the approval of the adopting ordinance for the PUD Overlay zone district classification and the PUD Plan, a PUD Agreement shall be established binding the Planned Development to any conditions placed in the adopting ordinance and PUD Plan. To the degree necessary and appropriate, the PUD Agreement shall include, but is not limited to conditions related to: design requirements; a phasing plan; open space; a comprehensive sign plan; landscaping; parking; and public facility improvements and phasing.
  7. Placement of Planned Unit Development (PUD) Overlay District Designation on Official Zone District Map. After final approval of the adopting ordinance for the Planned Unit Development Overlay (PUD-O) zone district classification, the PUD Plan and PUD Agreement, the City Planner shall amend the Zone District Map to show a Planned Unit Development Overlay (PUD-O) zone district classification.
  8. Recordation. The applicant shall record the adopting ordinance for the Planned Unit Development Overlay (PUD-O) zone district classification, the PUD Plan and the PUD Agreement with the County Registrar of Deeds. They shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, design guidelines and all other elements and conditions set forth on the PUD Plan and PUD Agreement. The applicant shall submit proof to the City Planner that the adopting ordinance, PUD Plan, and PUD Agreement have been recorded with the County Registrar of Deeds within 180 calendar days of its approval or the adopting ordinance, PUD Plan, and PUD Agreement shall be rendered invalid and the property shall return to its prior zone district classification.
  9. Effect. Approval of an adopting ordinance for a Planned Unit Development Overlay (PUD-O) zone district classification, the PUD Plan and PUD Agreement shall constitute a Zone District Map classification and recognition by the City that the landowner may proceed, consistent with the PUD Plan and PUD Agreement to develop the land, with appropriate site plan review and permit approvals.
  10. Expiration.
    - a) General. The approval of a PUD Plan, and PUD Agreement if applicable shall be null and void unless construction of required improvements is commenced and diligently pursued to completion, and a site plan is submitted for at least the initial phase of the PUD Plan within three years after the date of approval of the Planned Unit Development Overlay (PUD-O) Overlay zone district classification. Such time period will not be extended with transfer of ownership.
    - b) One Extension. Upon written request, one extension of time may be granted by the City Commission for a period not to exceed one year for good cause shown. No request for an extension shall be considered unless a written request is submitted to the City Planner no later than 30 days prior to the date the PUD Plan is to expire. The approval shall be deemed extended until the City



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Commission has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render invalid the PUD Plan, and PUD Agreement if applicable.

- c) **Effect of Invalidation.** If an adopted PUD Plan, and PUD Agreement if applicable, becomes invalid through the operation of Subsection (a) or (b) above, no further development within the approved PUD-O zone district may take place until a new PUD Plan, and PUD Agreement if applicable, has been approved in the same manner required for the approval of the original PUD Plan. At any time after the invalidation of a PUD Plan, and PUD Agreement if applicable, the City Commission may, upon its own initiative, rezone the property in the approved PUD-O districts back to the zone district that existed prior to the approval of the PUD-O district, or to any other zone district consistent with the Comprehensive Plan.
11. **Minor Deviations.** A minor deviation to a PUD Plan and/or a PUD Agreement may be approved by the City Planner. In making a decision on a minor deviation the City Planner shall identify the facts and standards of this section that permit the approval or disapproval of the minor deviation. A minor deviation shall be limited to technical or engineering considerations first discovered during actual development that could not reasonably be anticipated during the approval process or any other change that has no material effect on the character of the approved planned unit development or any of its approved terms or conditions, as long as it complies with the standards of this Ordinance. Minor deviations shall be limited to the following:
- a) **Height.** An increase of building height by not more than 10%, as long as the height increase is consistent with the contextual height of the surrounding buildings and structures and the PUD Plan.
  - b) **Alteration of the Building Envelope.** Alteration of the building envelope of up to 10%, provided such alteration does not materially change the design of the development approved in the PUD Plan, and does not change the number of stories, density or intensity.
  - c) **Reduction of Open Space.** Reduction of the total amount of open space by not more than 1%, as long as 20% of the project is maintained in open space.
  - d) **Parking Spaces.** A decrease of parking spaces by not more than 5%, if it is demonstrated that the minor deviation complies with requirements of § 6.1: Off-Street Parking and Loading.
  - e) **Relocation of Buildings.** Relocation of buildings or uses, as long as they maintain the same general building relationships, topography, landscaping, and utility design and are consistent with the PUD Plan, as long as any required setbacks are maintained.
12. **Amendments.** An amendment to a PUD Plan and/or PUD Agreement may be made only pursuant to the procedures and standards for its original approval.

D. **Special Use Permit.**

- 1. **Purpose.** Special uses are those uses that may have a greater propensity to adversely affect surrounding uses in a zone district and, therefore, require special and individual review of their location, design, configuration, intensity, and density of use or structures to ensure land use compatibility, public facility adequacy, natural resource protection and the public health, safety and welfare of the residents of the City. Conditions of approval may be imposed on a special use that is pertinent to the particular use at a particular location.
- 2. **Authorization.**
  - a) **General.** The Planning Commission, in accordance with the procedures and standards of this section, shall review, consider and approve, approve with conditions or disapprove special use permits.

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- b) Uses Authorized. Only those uses authorized as special uses in § 4.1: Use Table, may be approved as special uses. The designation of a use as a special use in § 4.1: Use Table, does not constitute an authorization that such use shall be approved as a special use pursuant to this section. Rather, each proposed special use shall be evaluated by the Planning Commission for compliance with the standards set forth in this section and the applicable supplementary standards for the use in § 4.2: Use Standards.
3. Procedure. The procedures and requirements for a special use permit shall comply with the requirements of § 8.1: General Provisions.



**Special Use Permit**

4. Standards. The Planning Commission shall approve a special use permit if it finds there is evidence in the record that demonstrates all of the following are met:
- a) Compatibility. The proposed special use is appropriate for its proposed location and compatible with the character of surrounding land uses and the uses permitted in the zone district(s) of surrounding lands.
  - b) Zone District Use Standards. The proposed special use complies with § 4.2: Use Standards.
  - c) Location and Design Minimizes Adverse Impact. The location and design of the proposed special use minimizes adverse effects, including visual impact of the proposed use on adjacent lands by:
    - 1) Avoiding significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.
    - 2) Retaining, to the greatest extent possible, the natural features of the landscape where they provide a barrier or buffer between the proposed special use and adjoining lands.
    - 3) Locating buildings, structures, and entryways to minimize impact.
    - 4) Providing appropriate screening, fencing, landscaping, and setbacks.
  - d) Design Minimizes Environmental Impact. The proposed special use minimizes environmental impacts, and conforms to all relevant environmental protection standards of this Ordinance, or any other state or federal laws.
  - e) Off-Site Roads. There is adequate road capacity available to serve the proposed special use.
  - f) Road Ingress and Egress. The proposed special use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site.

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- g) Impact on Other Public Facilities. There are adequate potable water, wastewater, solid waste, park, police, and fire/EMS facilities to serve the proposed special use.
- h) Access for Fire, Police, and EMS. The proposed special use is located and designed so that adequate access onto the site is provided for fire, police, and EMS services.
- i) Site Development Standards. The proposed special use complies with the appropriate standards in Chapter 6: General Development Standards.
- j) Other Relevant Standards of This Ordinance. The proposed special use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

- 5. Conditions of Approval. The Planning Commission may impose, in approving the special use, such conditions on approval of the proposed use, and the premises to be developed or used pursuant to such approval, as it determines are required by the standards of this section and all other relevant standards of this Ordinance to prevent or minimize adverse effects from the proposed use and development on surrounding lands. All conditions imposed on any special use shall be expressly set forth in the special use permit approval.
- 6. Recording. The Planning Commission may require the applicant to record the special use permit with the County Register of Deeds. The special use permit shall be binding upon the landowners, their successors and assigns.
- 7. Effect of Special Use Permit. Issuance of a special use permit shall authorize only the particular use, subject to the conditions approved in the special use permit. A special use permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.
- 8. Expiration. Unless otherwise specified in the special use permit, an application for a construction permit shall be applied for and approved within two years of the date of the approval of the special use permit or the special use permit shall be considered invalid. Permitted time frames do not change with successive owners.
- 9. Extension. Upon written request, one extension of one year may be granted by the Planning Commission for good cause shown.
- 10. Amendments. A special use permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

E. Variances.

1. Purpose.

- a) General. There are two types of variances allowed under the terms of this Ordinance: dimensional variances and use variances.
- b) Dimensional Variances. Dimensional variances are deviations from the height, setback, yard, lot coverage, parking, landscaping and signage standards of this Ordinance, when owing to special circumstances or conditions (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal enforcement of the provisions of this Ordinance would result in peculiar and practical difficulties to the owners of the land, and the deviation would not be contrary to the public interest.
- c) Use Variances. Use variances are variations from the schedule of permitted uses in a zone district established pursuant to § 4.1: Use Table, when owing to unnecessary hardship uniquely associated with the property, this Ordinance unreasonably restricts the property owner's use of permitted uses.

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- d) **No Increase in Residential Density.** A request to modify lot requirements to increase the permitted density of new residential development shall not be considered a variance and is prohibited (e.g., a lot modification that increases the number of permitted dwelling units on a lot shall not be allowed).
2. **Authority.** The Zoning Board of Appeals, in accordance with the procedures, standards and limitations of this section, is authorized to review and approve, approve with conditions or disapprove an application for a variance (dimensional variances or use variances).
  3. **Procedure.** The procedures and requirements for variances shall comply with the requirements of § 8.1: General Provisions.

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**Variance**

4. **Standards.**
  - a) **Dimensional Variance.** The Zoning Board of Appeals shall approve a dimensional variance on a finding there is competent, material, and substantial evidence in the record that all of the following standards are met:
    - 1) There are special circumstances or conditions (like exceptional topographic conditions, narrowness, shallowness, or the shape of property) that are peculiar to the land or structure for which the variance is sought, that is not applicable to other land or structures in the same zone district.
    - 2) The special circumstances are not the result of the actions of the applicant or titleholder of the land.
    - 3) The literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zone district, and would cause practical difficulty.
    - 4) The granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.
    - 5) The granting of the variance will not adversely affect adjacent land in a material way.
    - 6) The granting of the variance will be generally consistent with the purposes and intent of this Ordinance.
    - 7) Where the requested dimensional variance involves required landscaping, the Zoning Board

of Appeals may grant a variance upon the following additional criteria:

- (a) Existing landscaping, screening or wetlands intended to be preserved meets the intent of this section.
  - (b) The landscape design proposed by the applicant meets the intent of this section.
  - (c) There is a steep change in topography that would limit the benefits of required landscaping.
  - (d) The proposed building and parking lot placement is setback well beyond the minimum required.
  - (e) The abutting or adjacent land is developed or will be developed in the near future with a use other than residential.
  - (f) Similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.
- b) Use Variance. The Zoning Board of Appeals shall approve a use variance on a finding there is competent, material, and substantial evidence in the record that all of the following standards are met:
- 1) The literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant for all practical purposes from using the property for a permitted use identified in § 4.1: Use Table, which is a right commonly enjoyed by other land in the same zone district.
  - 2) There is unnecessary hardship based on special circumstances or conditions that are peculiar to the land or structure for which the use variance is sought that is not applicable to other land or structures in the same zone district.
  - 3) The special circumstances are not the result of the actions of the applicant.
  - 4) The granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.
  - 5) The granting of the variance will not adversely affect adjacent land in a material way.
  - 6) The granting of the variance will be generally consistent with the purposes and intent of this Ordinance.
5. Conditions of Approval. The Zoning Board of Appeals, in approving the variance, may impose conditions on such approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to ensure compliance with the standards in this section. The conditions shall be identified in the variance approval.
6. Recording. The Zoning Board of Appeals may require the applicant to record the variance with the County Register of Deeds. The variance shall be binding upon the landowners, their successors and assigns.
7. Effect of Variance. Issuance of a variance shall authorize only the particular variation that is approved in the variance. A variance, including any conditions, shall run with the land and not be affected by a change in ownership.
8. Subsequent Development. Development authorized by the variance shall not be carried out until the

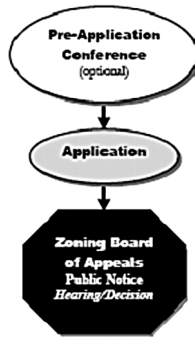
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applicant has secured all other approvals required by this Ordinance or any other applicable provisions of the City. A variance does not ensure that the development approved as a variance shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met. § 8.3

9. Expiration. Unless otherwise specified in the variance, an application for a construction permit shall be applied for and approved within one year of the date of the approval of the variance, otherwise the variance shall become invalid. Permitted time frames do not change with successive owners.
10. Extension. Upon written request, one extension of six months may be granted by the Zoning Board of Appeals for good cause shown.
11. Amendment. A variance may be amended, extended or modified only in accordance with the procedures and standards established for its original approval. A request for a change in a condition of approval of a variance shall be considered an amendment.

F. Appeals of Administrative Decisions.

1. Authorization. Any person aggrieved or effected by any order, decision, determination, or interpretation made by the City Planner or other administrative official of the City charged with administration or enforcement of this Ordinance, may appeal such decision to the Zoning Board of Appeals pursuant to the procedures and standards of this section.
2. Procedure.
  - a) Initiation of Appeal. An appeal pursuant to this section shall be initiated by filing a written appeal of the administrative decision/determination within 30 days of the date of the order, decision, determination or interpretation.
  - b) Contents of Appeal. The written appeal of the administrative decision/determination from the allegedly aggrieved person shall include a statement of the error or improper order, decision, determination or interpretation, the date of that decision, and all support materials related to the decision. A nonrefundable filing fee as set by resolution of the City Commission shall also be submitted.
  - c) Forwarding Record to the Appellate Body. Upon receiving the written appeal of the administrative decision/determination, the City Planner or other administrative official whose decision/determination is being appealed, shall transmit the written appeal of the administrative decision/determination and all papers, documents and other materials relating to the order, decision, determination or interpretation that is appealed to the Zoning Board of Appeals. This material shall constitute the record of the appeal.
  - d) Scheduling of Notice and Hearing. The City Planner shall schedule a hearing on the matter at the next regularly scheduled Zoning Board of Appeals meeting by which time notice can be provided consistent with the requirements of § 8.11.3: Written (Mailed) Notice.
  - e) Action by Zoning Board of Appeals. At the hearing on the appeal, the appellant or the appellant's agent shall state the grounds for the appeal and identify any materials or evidence from the record to support the appeal. The City Planner or other administrative official whose action is the subject of the appeal shall be given an opportunity to respond, as well as any other person(s) the Zoning Board of Appeals deems necessary. After the conclusion of the hearing, the Zoning Board of Appeals shall affirm, partly affirm, modify, or reverse the order, decision, determination, or interpretation, based on the standards in § 8.3F.3: Standards. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, decision, determination, or interpretation on appeal.



### Appeals of Administrative Decisions

3. Standards. An order, decision, determination or interpretation shall not be reversed or modified unless there is competent, material and substantial evidence in the record that the order, decision, determination or interpretation fails to comply with either the procedural or substantive requirements of this Ordinance, state law or the federal or state constitutions.
4. Conditions. The Zoning Board of Appeals may impose conditions upon an affirmative decision to ensure the requirements and purposes of this Ordinance are followed in the order, decision, determination, or interpretation.
5. Stay. A properly submitted appeal shall stay all administrative proceedings by the City in furtherance of the action appealed, unless the City Planner or other administrative official from whom the appeal is taken certifies to the Zoning Board of Appeals that a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the Zoning Board of Appeals for good cause shown.

#### G. Administrative Adjustments.

1. General. This section sets out the procedures and standards for administrative adjustments, which are modifications of 10% or less of any numeric dimensional standard set out in § 5.1: Density/Intensity/Dimensional Standards Table, except those related to residential density or nonresidential intensity.
2. Procedure.
  - a) General. The procedures and requirements for initiation of an application, the application contents, fees, application submission, and review of the application by City staff shall comply with those relevant provisions in § 8.1: General Provisions.
  - b) Action by City Planner. Within 30 days after the application is determined sufficient, the City Planner shall review the application and approve, approve with conditions or disapprove the administrative adjustment based on the standards in § 8.3G.3: Standards.



### Administrative Adjustments

3. Standards. The City Planner may approve an administrative adjustment upon a finding that all of the following standards are met:
  - a) General. The requested adjustment eliminates an unnecessary inconvenience to the applicant, is not inconsistent with the character of development in the surrounding area and will not result in incompatible land uses;
  - b) Mitigates Adverse Impacts. Any adverse impacts resulting from the administrative adjustment will be mitigated to the maximum extent feasible; and
  - c) Technical Nature/Compensates for Unusual Aspect of Site. The administrative adjustment is of a technical nature and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general. For example: If a lot slopes so sharply at the property boundary that the primary structure would not be visible even without the minimum setback, and the shape of the lot makes it difficult to meet the setback, an administrative adjustment to a smaller setback may be appropriate.
4. Conditions of Approval. The City Planner may, in approving the administrative adjustment, impose such restrictions and conditions on such approval and the premises to be developed or used pursuant to such approval as are determined are required to ensure compliance with the general goals, objectives, and policies of this Ordinance to prevent or minimize adverse effects from the proposed administrative adjustment.
5. Recording. The City Planner may require the applicant to record the administrative adjustment with the County Register of Deeds. The administrative adjustment shall be binding upon the landowners, their successors and assigns.
6. Subsequent Development. Development authorized by the administrative adjustment shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the City. An administrative adjustment shall not ensure that the development approved as an administrative adjustment shall receive subsequent approval for other applications for development, unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.
7. Effect of Administrative Adjustment. Issuance of an administrative adjustment shall authorize only the particular modification that is approved in the administrative adjustment. An administrative adjustment, including any conditions, shall run with the land and not be affected by a change in ownership.
8. Expiration. Unless otherwise specified in the administrative adjustment, an application for a construction permit shall be applied for and approved within one year of the date of the approval of the administrative adjustment, otherwise the administrative adjustment shall become invalid. Permitted time frames do not change with successive owners.
9. Extension. Upon written request, only one extension of time may be granted by the City Planner for a



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period not to exceed six months for good cause shown.

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10. Amendment. An administrative adjustment may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

#### H. Site Plan.

1. Purpose and Intent. The purpose and intent of this section is to establish procedures and standards for review and approval of development to ensure full compliance with the site and development standards of this Ordinance and other related City ordinances and state and federal regulations. Specifically, these site plan review procedures and standards are intended to:
  - a) Consultation and Cooperation. Foster consultation and cooperation between property owners proposing to develop land and the City.
  - b) Balance Property Rights and Community Goals. Balance rights of the property owner with the development goals of the City and the rights of adjacent landowners.
  - c) Minimize Adverse Impacts on Investments of Surrounding Landowners. Minimize adverse impacts of development on the investments of surrounding landowners.
  - d) Minimize Impacts on Environment, Drainage, Soil Erosion, and Stormwater Control. Ensure site design minimizes negative impacts on the environment, drainage, soil erosion, and stormwater control.
  - e) Development Consistent With Surrounding Character and Goals of Comprehensive Plan. Ensure the arrangement, location and design of development is consistent with the character of the area and the goals of the Comprehensive Plan.
  - f) Minimize Impact on Roads. Ensure site design minimizes negative impacts on roadway capacity, the safety of motorists and pedestrians, utilities, and community facilities and services.
  - g) Safe and Efficient Circulation. Ensure safe and efficient circulation for motorized and nonmotorized traffic and pedestrians within and adjacent to sites.
  - h) Gradual Upgrade of Nonconforming Sites. Provide for the gradual upgrade of existing sites that do not conform with current standards.
  - i) Thorough Evaluation of Development. Ensure a thorough evaluation of development in relation to the goals of the Comprehensive Plan, with emphasis on preserving aesthetics, the environment, historic resources, property values, quality of life, and other public health, safety and welfare objectives.
2. Applicability. Unless exempted pursuant to § 8.3H.3: Exemptions, prior to the development of any new use or structure, any change of an existing use of land, the expansion or conversion of any use or structure, or any other development activity, a site plan shall be approved pursuant to the procedures and standards of this section. Construction plans will not be reviewed or a construction permit issued until a site plan is approved pursuant to the procedures and standards of this section.
3. Exemptions. The following shall be exempted from the requirements of this section:
  - a) One- or Two-Family Dwelling. The development or expansion of a one-family or two-family dwelling unit.
  - b) Dwelling Unit in Mobile Home Park. Placement of a dwelling unit in an approved mobile home park.

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- c) Internal Construction Not Increasing Intensity or Parking Requirement. The internal construction or change in the floor area of a structure that does not increase gross floor area, increase the intensity of use or affect parking requirements on a site that meets all development and site design standards of this Ordinance.
  - d) Site Clearing Within Area Less Than 1/2 Acre. Grading, excavation, filling, soil removal, creation of ponds or clearing of trees within an area of less than 1/2 acre in size.
  - e) Temporary Uses. Temporary uses.
  - f) Minor Development or Expansion. Expansion or new structures up to and including 250 square feet in area.
4. Overview. Development for which a site plan is required pursuant to this section shall be subject to one of two processes: sketch plan review or full site plan review.
- a) Sketch Plan Review. Sketch plan review is required of smaller sized development and development with potentially less impacts. Except for development in the CBTR District, it requires review and approval, approval with conditions or disapproval by the Site Plan Review Committee (SPRC). Sketch plan review in the CBTR District requires review and approval by the SPRC and review and final action by the Planning Commission.
  - b) Full Site Plan Review. Full site plan review is required of larger sized development, and development with potentially greater impacts. Except for development in the CBTR District, it requires review and approval, approval with conditions or disapproval of a preliminary site plan and then a final site plan by the SPRC. Preliminary site plan and then final site plan review in the CBTR District requires review and approval by the SPRC and then review and final action by the Planning Commission. The applicant may consolidate review of the preliminary site plan and final site plan. The preliminary site plan presents the proposed development concept with sufficient information to enable the review board to determine whether the concept complies with the review standards of this section. The final site plan requires submission of detailed information about the proposed development with exact dimensions, representing a firm commitment about development of the site.
5. Threshold for Sketch Plan Review and Full Site Plan Review. The thresholds for which type of development is subject to sketch plan review or full site plan review are set forth in Table 8.3-2.

**Table 8.3-2: Threshold for Sketch Plan and Full Site Plan**  
 [Amended 3-19-2007 by Ord. No. 1822]

Development Use/Expansion	Required Review	
	Sketch Plan	Full Site Plan
<b>New Development — Residential</b>		
Residential development, unless exempted		<input checked="" type="checkbox"/>
Residential care facilities (state licensed) that are permitted uses	<input checked="" type="checkbox"/>	
Residential care facilities (state licensed) that require special use permit		<input checked="" type="checkbox"/>
<b>New Development — Nonresidential</b>		
Construction of new building or structure		<input checked="" type="checkbox"/>
Nonresidential development requiring special use permit		<input checked="" type="checkbox"/>
Erection of wireless communication antenna on existing facility	<input checked="" type="checkbox"/>	

**Table 8.3-2: Threshold for Sketch Plan and Full Site Plan**  
 [Amended 3-19-2007 by Ord. No. 1822]

Development Use/Expansion	Required Review	
	Sketch Plan	Full Site Plan
Erection of wireless communication structure or towers		<input checked="" type="checkbox"/>
Construction of essential public service buildings and storage areas		<input checked="" type="checkbox"/>
Public and private golf courses, outdoor recreational uses, and parks, including principal structures, and parking areas		<input checked="" type="checkbox"/>
<b>Expansion</b>		
An increase in the building floor area up to 1,500 square feet or 10% of the existing floor area, whichever is less, based on the cumulative total of the proposed expansion and any expansion within the last five years	<input checked="" type="checkbox"/>	
An increase in the building floor area greater than that specified above		<input checked="" type="checkbox"/>
An increase in parking or loading area over 10% or 6,000 square feet of pavement area, whichever is less	<input checked="" type="checkbox"/>	
<b>Change in Use</b>		
Any change in the use of land or a building to a more intensive use, that may involve significant changes to features such as building appearance, parking needs, traffic flow, traffic volumes, buffering needs, hours of operation, noise, effluent discharge, drainage, lighting, and similar impacts	<input checked="" type="checkbox"/>	
A change in use to a similar or less intensive use for a site that does not comply with current development standards (such as landscaping, signs, lighting or drainage)	<input checked="" type="checkbox"/>	
A change from a nonconforming use, building, or site, to a more conforming situation	<input checked="" type="checkbox"/>	
<b>Other Type of Development</b>		
Accessory open-air business	<input checked="" type="checkbox"/>	
Architectural changes to a multiple-family residential structure (three or more units) or a nonresidential structure (only an elevation plan describing changes and construction materials is required if no changes to the use of the site are proposed)	<input checked="" type="checkbox"/>	
Grading, excavation, filling, soil removal, creation of ponds or clearing of trees of one-half acre or more	<input checked="" type="checkbox"/>	
Home occupations	<input checked="" type="checkbox"/>	

6. Procedure. The Planning Commission is responsible for approval of all site plans. However, for all zone districts other than the CBTR zone district, the Planning Commission may annually delegated authority to approve site plans to the Site Plan Review Committee. Such a delegation is currently in effect, and is reflected in the procedures below. In the event the Planning Commission does not delegate site plan approval authority to the SPRC for one or more district(s) in the future, site plan review procedures for such district(s) shall be governed by the provisions below applicable to the CBTR district.
  - a) Sketch Plan Review, Except in CBTR District. Sketch plan review shall follow the following procedure, except in the CBTR District.
    - 1) Initiation, Submission and Review of Application. The procedures and requirements for initiation of an application for sketch plan review, the application contents, fees, application submission and sufficiency determination shall comply with the relevant requirements of

## § 8.1: General Provisions.

- 2) Initial SPRC review. Within a reasonable period of time after the application is determined sufficient, the Site Plan Review Committee (SPRC) shall review the application and prepare a written Staff Report on whether the application complies with the standards in § 8.3H.7: Standards. A copy of the Staff Report shall be provided to the applicant.
  - 3) Plan Complies/Approve. If the SPRC finds the sketch plan complies with the standards in § 8.3H.7: Standards, the sketch plan shall be approved.
  - 4) Plan Not Comply/Applicant Opportunity to Modify. If the Staff Report identifies changes that need to be made to the sketch plan to ensure it complies with § 8.3H.7: Standards, the applicant shall submit a modified sketch plan addressing the required changes.
  - 5) Action After Resubmittal. The SPRC shall review the sketch plan within a reasonable period of time after its resubmittal, and approve, approve with conditions or disapprove the application, based on the standards in § 8.3H.7: Standards. If the sketch plan is not resubmitted within 60 days of the date the SPRC provides the applicant the Staff Report, the application shall be considered withdrawn.
- b) Sketch Plan Review in CBTR District. The procedure for the review of a sketch plan in the CBTR District shall be the same as the procedure for a sketch plan established above (§ 8.3H.6.a), except that after the sketch plan is approved or approved with conditions by the SPRC, it shall be placed on the agenda of the next regularly scheduled Planning Commission meeting by the City Planner, along with a written report from the SPRC. At the meeting the Planning Commission shall review the sketch plan, the written report from the SPRC and all other relevant information and testimony, and approve, approve with conditions or disapprove the sketch plan based on the standards in § 8.3H.7: Standards.
- c) Full Site Plan Review, Except in CBTR District.
- 1) Preliminary Site Plan (optional).
    - (a) The procedures and requirements for initiation of an application for preliminary site plan review, the application contents, fees, application submission and sufficiency determination shall comply with the relevant requirements of § 8.1: General Provisions.
    - (b) Within a reasonable period of time after the application is determined sufficient, the SPRC shall review the application and prepare a written Staff Report on whether the application complies with the standards in § 8.3H.7: Standards. A copy of the Staff Report shall be provided to the applicant.
    - (c) If the SPRC finds the preliminary site plan complies with the standards in § 8.3H.7: Standards, the preliminary site plan shall be approved or approved with conditions.
    - (d) If the Staff Report identifies changes that need to be made to the preliminary site plan to ensure it complies with § 8.3H.7: Standards, the applicant shall submit a modified preliminary site plan or final site plan addressing the required changes.
    - (e) The SPRC shall review the preliminary site plan within a reasonable time after its resubmittal, and approve, approve with conditions or disapprove the application, based on the standards in § 8.3H.7: Standards. If the preliminary site plan is not resubmitted within 60 days of the date the SPRC provides the applicant the Staff Report, the application shall be considered withdrawn.
  - 2) Final Site Plan. The procedure for the review of a final site plan shall be the same as the

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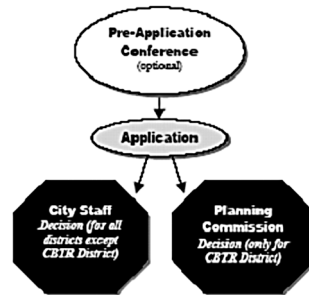
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procedure for a preliminary site plan established in Subsection 6(a)(1) of § 8.3H: Site Plan. The final site plan shall be in substantial conformance with the preliminary site plan and comply with the standards in § 8.3H.7: Standards.

- d) Full Site Plan Review in the CBTR District. The procedure for full site plan review in the CBTR District shall be the same as the procedure for full site plan review established above (§ 8.3H.6.c), except that after final site plan is approved or approved with conditions by the SPRC, it shall be placed on the agenda of the next regularly scheduled Planning Commission meeting by the City Planner, along with a written report containing the SPRC's findings. At the meeting, the Planning Commission shall review the final site plan, the written report, and all other relevant information and testimony, and approve, approve with conditions or disapprove the plans based on the standards in § 8.3H.7: Standards.

7. Standards. A site plan shall be approved upon a finding that:

- a) Uses. The uses in the site plan comply with § 4.1: Use Table.
- b) Zone District Use Standards. The development and uses in the site plan comply with § 4.2: Use Standards.
- c) Site Configuration. All elements of the site plan are harmoniously and efficiently organized in relation to topography, the size, and type of the lot, the land use character of adjoining properties and the types and size of buildings, and are consistent with any adopted plans for the area and standards or guidelines for location of structures on the site.



**Site Plan Review**

- d) Not Adversely Affect Development or Improvement of Surrounding Property. The development proposed in the site plan does not adversely affect the normal and orderly development or improvement of surrounding property for uses permitted in Table 4.1, Use Table.
- e) Not Adversely Impact on Surrounding Land Uses and Zoning. The development proposed in the site plan is harmonious with, and not harmful or injurious to existing and planned future uses in the immediate area. The proposed development will be coordinated with improvements serving the subject property and with the other developments in the vicinity.
- f) Design and Development Standards in Historic Districts and CCBI). The development proposed in a site plan located within local historic districts, other historically designated areas or within the CCBD district conforms to all applicable design and development standards.
- g) Preservation of Historic Resources. The site plan demonstrates judicious effort to preserve and protect historic resources to the greatest extent reasonable, and the site plan meets all federal, state, and local regulations pertaining to historic resources.
- h) Open Space. Open space is distributed and conveniently located physically with respect to the

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overall development, will be accessible to all residents of the development and is located to meet the needs of the residents or occupants. Open space shall be rationally coordinated with open space features of adjacent areas and enhance the natural features of the site.

- i) Preservation of Natural Features. The site plan demonstrates judicious effort to preserve the integrity of the land, existing topography, natural features (i.e., slopes, woodlands, etc.) and natural drainage patterns. Regulated and nonregulated wetlands are preserved or modified in a legal manner.
- j) Preservation of Woodlands and Trees. The site plan demonstrates judicious effort to preserve existing woodlands, understory, and individual quality trees to the greatest extent reasonable.
- k) Greenbelts, Landscaping, and Screening. Proposed landscaping complies with the standards of § 6.2: Landscaping, and all other applicable landscaping and screening requirements of the City. Greenbelts along public street frontage and buffer zones from adjacent zone districts shall be provided where required. Parking lot landscaping is provided as required in § 6.2: Landscaping. The amount, type, and minimum size of landscaping shall be identified in a plant list with appropriate labeling on the landscaping plan.
- l) Stormwater Management. Stormwater management is consistent with all federal, state and City regulations. The development will not substantially reduce the natural retention storage capacity of any watercourse, increase the potential for flooding, or increase the stormwater runoff from the site. Provisions are made to accommodate stormwater that complements the natural drainage patterns and wetlands, prevents erosion and the formation of dust. On-site storage, sedimentation ponds, or plantings may be required to reduce stormwater runoff or to filter stormwater so that it is of an acceptable quality when it returns to the aquifer. Vegetation (preferably vegetation native to Southwest Michigan) shall be used in the stormwater management system when feasible. Stormwater runoff on paved areas shall be collected at intervals not obstructing the flow of vehicular or pedestrian traffic, and will not create standing water or cause unnecessary erosion of soil or other material. The proposed development shall comply with the regulations of the City of Kalamazoo's "Performance Standards for Groundwater Protection within Wellhead Protection Capture Zones and Stormwater Quality Management." **[Amended 5-21-2007 by Ord. No. 1826]**
- m) Soil Erosion Control. The site plan is designed to meet or exceed all soil erosion standards and regulations of the City.
- n) Traffic Impacts and Mitigation. The site plan is designed so the location and design of driveways are safe in relation to streets giving access to the site and in relation to pedestrian traffic. Traffic improvements shall be planned to accommodate the needs of the development proposed in the site plan.
- o) Access, Internal Streets, and Circulation. The site plan is designed so safe, convenient and well defined vehicular circulation is provided within and accessing the site. Access to the site is designed to minimize conflicts between vehicles and pedestrians, and with traffic using adjacent streets and driveways. All streets and driveways are in accordance with the standards of the City. Service drives are provided where needed, and meet requirements of City regulations.
- p) Nonmotorized Transportation and Circulation. The site plan is designed so safe and convenient pedestrian and bicycle circulation is provided within and accessing the site, according to the City's Nonmotorized Transportation Plan, including sidewalks, pathways, walkways, trails, bicycle routes and paths, sky-walks, and/or other nonmotorized transportation corridors. In accordance with Section 6.1 M. of this ordinance, bicycle parking spaces shall be provided on all properties that are subject to the site plan review process. **[Amended 1-3-2011 by Ord. No. 1876]**
- q) Emergency Vehicle Access. The site plan is designed so adequate access is provided for

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- emergency vehicles to the site and all buildings or groups of buildings.
- r) **Parking and Loading Spaces.** The number and dimensions of off-street parking and loading/unloading spaces, and the design of parking and loading areas, comply with the requirements of § 6.1: Off-Street Parking and Loading. The site provides barrier free parking and access in compliance with all applicable federal, state and City regulations.
  - s) **Waste Receptacles.** Waste receptacles (e.g., dumpsters, compactors and individual recycle stations) proposed in the site plan comply with all appropriate City regulations and are screened pursuant to § 6.3D: Screening of Waste Receptacles.
  - t) **Exterior Lighting.** Exterior lighting proposed in the site plan complies with § 6.6: Operational Performance Standards, and all other applicable City regulations. Exterior lighting is arranged so it is deflected away from adjacent properties and it does not impede the vision of traffic along adjacent streets.
  - u) **Signs.** Signage proposed in the site plan complies with Chapter 7: Signs, and is generally complementary with surrounding signage and does not impede adjacent traffic operations.
  - v) **Storage of Potentially Hazardous Materials or Waste.** Any uses in the site plan utilizing storing or handling of hazardous material provides secondary containment facilities and documentation of compliance with all appropriate state and federal regulations.
  - w) **Utilities.** The site plan provides adequate utility services. All new utility distribution lines (public or private) shall be placed underground, when feasible. Proposed utilities shall be approved by the City Engineer.
  - x) **Groundwater Protection.** The site plan is designed to comply with all applicable federal, state, and City groundwater protection requirements. The proposed development shall comply with the regulations of the City of Kalamazoo's "Performance Standards for Groundwater Protection within Wellhead Protection Capture Zones and Stormwater Quality Management." [**Amended 5-21-2007 by Ord. No. 1826**]
  - y) **Phasing.** Any phases of development in the site plan are in logical sequence so that any phase will not depend upon a subsequent phase for adequate access, public utility services, drainage, or erosion control. The review board may require a phasing plan with each submittal.
  - z) **Agency Coordination.** The applicant has demonstrated the site plan meets the standards of other government agencies, where applicable.
  - aa) **Site Development Standards.** The development proposed in the site plan and its general layout and design comply with all appropriate standards in Chapter 6: General Development Standards.
  - bb) **Other Relevant Standards of This Ordinance.** The development proposed in the site plan and its general layout and design comply with all other relevant standards of this Ordinance, and is consistent with public health, safety, and welfare.
8. **Conditions of Approval.** The review body may, in approving the site plan, impose such conditions on the approval and the premises to be developed or used as is determined are required to ensure compliance with the standards of this section. Performance guarantees may be required to ensure completion of site improvements pursuant to § 8.3.H.9: Performance Guarantees.
  9. **Performance Guarantees.**
    - a) **General.** The review body may require a performance guarantee to ensure completion of the site improvements (excluding building) for the site plan. The performance guarantee may take the form

of a cash deposit, surety bond, certified check, or an irrevocable bank letter of credit.

- b) Determination of Amount, Deposit and Rebate. The amount of the performance guarantee shall be determined by the City Engineer and the City Planner. The applicant shall deposit the performance guarantee with the City Treasurer prior to application for a construction permit. If the required improvements take longer than six months to complete, the City Planner shall authorize a rebate of any cash deposit in proportion to the amount of work that has been completed in accordance with the approved sketch plan or final site plan.
10. Record and Transmittal of Site Plan Approval. The grounds for the action taken on each site plan application shall be recorded in writing by the body taking final action on the site plan (sketch plan, preliminary site plan or final site plan). A copy of an approved sketch plan or final site plan shall be transmitted to the applicant, the City Planner, the Community Development Division, the Engineering Division and Public Safety by the Chairperson of the SPRC within two weeks of the date of final approval by the review board.
11. Effect of Sketch Plan or Final Site Plan. Approval of a sketch plan or final site plan, whichever is appropriate, authorizes the development approved, subject to any conditions of approval. A sketch plan or final site plan, including any conditions, shall run with the land and not be affected by a change in ownership.
12. Expiration. Approval of a sketch plan or final site plan, whichever is appropriate, shall become invalid at the end of one year after the date of its issuance if a construction permit for at least one building in the development proposed in the site plan is not approved. Permitted time frames do not change with successive owners.
13. Extension. Upon written request, one extension of six months may be granted by the body that approved the sketch plan or final site plan for good cause shown if a request for an extension is submitted prior to the expiration of the permit pursuant to § 8.3H.12: Expiration.
14. Engineering Plans, Specifications, and Inspection. Subsequent to sketch plan or final site plan approval, and before any construction proceeds, complete engineering plans and specifications for construction of storm sewers and drains, sanitary sewers, water mains, driveways, roads and parking area improvements, all conforming to City standards, shall be submitted for review and approval by the City and, when required, by county and state agencies.
15. Modification of Sketch Plan or Final Site Plan During Construction. It shall be the responsibility of the applicant to notify the City if changes to the sketch plan or final site plan are made during construction. If they constitute minor deviations, they are subject to review and approval, approval with conditions or disapproval by the City Planner pursuant to § 8.3H.16: Minor Deviations. If they constitute amendments, they are subject to review and approval, approval with conditions or disapproval by the review board pursuant to § 8.3H.17: Amendments.
16. Minor Deviations. Minor deviations from a site plan (sketch plan, preliminary site plan or final site plan) may be approved by the City Planner. All minor deviations shall comply with the minimum requirements of this Ordinance. All other modifications shall be considered amendments and shall be reviewed and approved pursuant to § 8.3H.17: Amendments. Minor deviations shall consist of:
- a) Minor Variations in Layout. Minor variations in the design layout of the development.
- b) Residential Floor Area. An increase or decrease in residential floor area of 5% or less of the site plan.
- c) Nonresidential Floor Area. An increase or decrease in commercial, industrial, institutional, semi-public, organizational and other nonresidential floor area of 5% or less of the site plan.



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- d) Finished Grades or Heights of Landscape or Screening Berms. Increases or decreases from the planned finished grades or heights of landscape or screening berms within two feet.
  - e) Trees, Shrubs, Ground Cover. Changes in the species, sizes of specimens or spacing of required trees, shrubs, or the type of ground cover to be used as designated on the site plan.
  - f) Finished Surface. Changes in the type of finished surface of walks, roads, drives, parking lots and loading and unloading paved areas.
  - g) Height. Increases in the height of buildings or structures by less than 10%.
  - h) Walls, Fencing, or Screening. Increases or decreases of the length or height of walls, fencing or screening by 20% or less.
  - i) Accessory Uses. Additions or deletions of permitted accessory uses to the approved principal uses designated on the site plan.
  - j) Right-of-Ways and Public or Private Easements. Additions, deletions or relocations of rights-of-way and public or private easements or adjustments to accommodate essential services for the proposed development or developments on adjacent properties.
  - k) Changes Due to Unforeseen Natural or Environmental Conditions or Natural or Constructed Features. Additions to accommodate changes due to unforeseen natural or environmental conditions or natural or constructed features e.g. underground water or geological features, existing structures and improvements and items of historical or other significance.
17. Amendments. A site plan (sketch plan, preliminary site plan or final site plan) may be amended only in accordance with the procedures and standards established for its original approval.
18. Property Maintenance.
- a) General. It shall be the responsibility of the owner of a property for which a sketch plan or final site plan has been approved to maintain the property in accordance with the approved site design on a continuing basis until new zoning regulations supersede the regulations upon which the approval was based, or until a new site design is approved pursuant to this section. This maintenance requirement includes healthy landscaping walls, fences, pavement, pavement markings, signs, building exterior, drainage facilities, and all other elements of a site. Any property owner who fails to maintain an approved site design shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the penalties appropriate for a use violation.
  - b) Condominium Projects. With respect to condominium projects, the Master Deed shall contain provisions describing the establishment of a condominium association and the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved sketch plan or final site plan on a continuing basis. The Master Deed shall further establish the means of permanent financing for required maintenance and improvement activities that are the responsibility of the condominium association. Failure to maintain an approved sketch plan or final site plan shall be deemed a violation of the use provisions of this Ordinance and shall be subject to the penalties appropriate for a use violation.
19. Stop Work and Revocation. Work on an approved sketch plan or final site plan may be stopped or revoked by the review board that approved the site plan if construction or use is not in conformance with the approved plans. In such case, the site plan shall be placed on the agenda of the review board for consideration, and written notice shall be sent to the applicant at least 10 days prior to the meeting. If the review board finds that a violation exists and has not been remedied prior to the meeting, it may direct construction or use on the approved sketch plan or final site plan to stop until it can be brought

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into conformance with the approved sketch plan or final site plan. If construction or use continues that is not in conformance with the approved plan(s), the site plan shall again be placed on the agenda of the review board for consideration, and written notice shall be sent to the applicant at least 10 days prior to the meeting. If the review board finds that a violation continues to exist and has not been remedied, the review board shall revoke the sketch plan or final site plan and direct all construction or use on the approved sketch plan or final site plan to cease.

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I. Sign Permit.

1. Purpose. A sign permit shall be required pursuant to the procedures of this section and the standards of Chapter 7: Signs, to ensure that proposed development complies with the requirements for signage established by this Ordinance.
2. Applicability. A sign permit shall be approved for all signs, except those signs exempted pursuant to § 7.2: Exemptions.
3. Procedure.
  - a) Initiation, Application and Contents, Fees and Submission. The procedures for initiation of an application for a sign permit, the application contents, fees, application submission and sufficiency determination shall comply with those relevant provisions in § 8.1: General Provisions.
  - b) Action by Zoning Inspector. After the application is determined sufficient, the Zoning Inspector shall review the application and determine whether the application complies with the standards in Chapter 7: Signs.
  - c) Approval. If the Zoning Inspector finds that the application complies with the standards in Chapter 7: Signs, the Zoning Inspector shall approve the sign permit.
  - d) Fails to Comply.
    - 1) If the Zoning Inspector determines the application fails to comply with the requirements of Chapter 7: Signs, the applicant shall be provided comments explaining why the application fails to comply with the review requirements, and an opportunity to submit a revised application. A revised application shall be reviewed by the Zoning Inspector within a reasonable time after its resubmittal and approved, approved with conditions or disapproved, based on the standards in Chapter 7: Signs.
    - 2) If the application is not resubmitted within 30 days, the application shall be considered withdrawn.
4. Effect of Sign Permit. Issuance of a sign permit shall authorize only the particular signage approved in the sign permit. A sign permit, including any conditions, shall run with the land and not be affected by a change in ownership.
5. Expiration. A sign permit shall expire at the end of one year after the date of its initial approval if the sign(s) are not constructed.
6. Extension. Upon written request, one six-month extension of the sign permit may be granted by the Zoning Inspector for good cause shown.
7. Amendment. A sign permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.
8. Violations. Sign violations shall be treated as violations of this Ordinance and the Building Code.

J. Temporary Use Permit.

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1. **Applicability.** The provisions of this section shall apply to all proposed temporary uses as set forth in § 4.3: Accessory and Temporary Uses and Structures, unless otherwise specifically exempted. § 8.3
2. **Procedure.**
- a) **Initiation, Submission and Review of Application.** The procedures for initiation of an application for a temporary use permit, the application contents, fees, application submission, sufficiency determination and review of the application by City staff shall comply with those relevant provisions in § 8.1: General Provisions.
- b) **Action by City Planner.** Within 30 days after the application is determined sufficient, the City Planner shall review the application and approve, approve with conditions or disapprove the application for temporary use permit based on the relevant standards in § 4.3 Accessory and Temporary Uses and Structures.
3. **Standards.** A temporary use permit shall be approved upon a finding that the temporary use, as proposed, complies with the relevant standards in § 4.3: Accessory and Temporary Uses and Structures.
4. **Permit Issued.** All approved applications shall be issued a temporary use permit authorizing the establishment of the approved temporary use. The temporary use permit shall be subject to the time limits and expiration provisions set forth in § 4.3: Accessory and Temporary Uses and Structures.
5. **When Effective.** A temporary use permit shall be effective beginning on the date of approval.
6. **Expiration.** All temporary use permits shall expire within six months.
7. **Extension.** Upon written request, one six-month extension may be granted by the City Planner for good cause shown.
8. **Amendment.** A temporary use permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.
- K. **Approval of Zoning Compliance.**
1. **Purpose.** An approval of zoning compliance shall be required in accordance with the provisions of this section in order to ensure that proposed development complies with the standards of this Ordinance, and to otherwise protect the public health, safety, and welfare of the citizens of the City.
2. **Applicability.** An approval of zoning compliance shall be required prior to approval of all construction permits that require zoning compliance.
3. **Procedure.**
- a) **Receipt of Construction Permit Application From Building Official.** Where appropriate, after receipt of an application for a construction permit, the Building Official shall forward the construction permit application to the Zoning Inspector for review pursuant to the procedures and standards of this section.
- b) **Action by Zoning Inspector.** After receipt of a construction permit application from the Building Official, the Zoning Inspector shall review the application and approve or disapprove the application based on the standards in § 8.3K.4: Standards. If the application is approved, an approval of zoning compliance shall be issued.
4. **Standards.** An approval of zoning compliance shall be approved upon a finding the application complies with all relevant standards of this Ordinance.
5. **Effect of Approval of Zoning Compliance.** Issuance of an approval of zoning compliance shall mean

§ 8.3 that the proposed development is in compliance with the procedures and standards of this Ordinance. § 8.3

6. Expiration. Receipt of an approval of zoning compliance shall expire at the end of six months after the date of its initial approval if an application for a construction permit has not been approved.
7. Amendment. An approval of zoning compliance may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

L. Interpretations.

1. Authority. Interpretations to this Ordinance shall be made by the City Planner, including: interpretations of the text of this Ordinance; interpretations of the zone district boundaries; and interpretations of whether an unspecified use falls within a use classification or use group allowed in a zone district.
2. Initiation. A written interpretation may be requested by the City Commission, the Planning Commission, or any resident, landowner or person having a contractual interest in land in the City.
3. Procedure.
  - a) Submission of Request for Interpretation. Before a written interpretation shall be provided by the City Planner, a request for interpretation shall be submitted to the City Planner in writing in a form established by the City Planner and made available to the public.
  - b) Determination of Sufficiency. Within seven days after a request for interpretation has been submitted, the City Planner shall determine whether it is sufficient.
    - 1) If the City Planner determines that the request is not sufficient, a notice shall be provided to the applicant specifying the deficiencies. The City Planner shall take no further action on the request for interpretation until the deficiencies are remedied. If the applicant fails to respond to the deficiencies within 30 days, the request for interpretation shall be considered withdrawn.
    - 2) When the request for interpretation is determined sufficient, the City Planner shall review the request and render an interpretation pursuant to the procedures and standards of this section.
  - c) Rendering of Interpretation. Within 30 days after the request for interpretation has been determined sufficient, the City Planner shall review and evaluate the request in light of the Comprehensive Plan, this Ordinance, the Zone District Map, and other relevant codes and statutes, consult with the City Attorney or other effected City staff, and then render an interpretation.
  - d) Form. The interpretation shall be in writing and sent to the applicant by mail within seven days after the interpretation is made by the City Planner.
4. Appeal. Any person aggrieved by a written interpretation from the City Planner may appeal the interpretation to the Zoning Board of Appeals pursuant to § 8.3F: Appeals of Administrative Decisions, by filing a written appeal of the administrative decision/determination with the City Planner pursuant to § 8.3F.2a.

M. Beneficial Use Determination.

1. General. If after the submission and decision on the appropriate applications for development approval or permits for a plan for the development of land a landowner in the City is of the opinion that all reasonable economically beneficial use of that landowner's land has been denied by the application of this Ordinance, then the procedures of this section shall be used prior to seeking relief from the courts in order that any denial of economically beneficial use of land may be remedied through a nonjudicial forum.

- § 8.3 2. Purpose. The purpose and intent of the City Commission is that every landowner in the City enjoys all reasonable economically beneficial use of land. It is also the purpose and intent of this section to provide for relief to the landowner, where appropriate, from the application of this Ordinance. The procedures set forth in this section are intended to permit landowners who believe they have been deprived of all reasonable economically beneficial use of their land to apply to the City Commission for relief sufficient to provide an economically beneficial use of the land. § 8.3
3. Procedure.
- a) Application for an Appeal for Beneficial Use Determination. An appeal for a beneficial use determination may be filed by a landowner at any time with the City Planner, along with an application fee established pursuant to § 8.1E: Fees.



**Beneficial Use Determination**

- b) Contents of Application. The application shall be submitted in a form established by the City Planner and made available to the public, and shall include the following:
- 1) The landowner's name and address.
  - 2) A legal description and the street address (when a street address is available) of the land.
  - 3) Documentation of the date of purchase and the purchase price of the land, and any offers to purchase the land made by any person, corporation, or association, within the last three years.
  - 4) A description of the physical features present on the land, the land's total acreage, the present use of the land, and the use of the land at the time of the adoption of this Ordinance.
  - 5) Evidence of any investments made by the landowner to improve the land, the date the improvements were made, and the costs of the improvements.
  - 6) A description of what uses of land were available when the land was purchased by the landowner.
  - 7) A description of the regulations and uses permitted that are alleged to result in an elimination of economically beneficial use of the land.
  - 8) All appraisals, studies, and any other supporting evidence, and any actions taken by the City related to the land.
  - 9) A description of the use that the landowner believes represents the minimum legally required economically beneficial use of the land and all documentation, studies, and other supporting

evidence for such opinion.

- c) **Determination of Sufficiency.** The City Planner shall determine if the application is sufficient and includes data in sufficient detail to evaluate the application to determine if it complies with the appropriate substantive requirements of this section.
  - 1) If the City Planner determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within 30 days, the application shall be considered withdrawn, and the application fee shall be refunded.
  - 2) When the application is determined sufficient, the City Planner shall notify the applicant, in writing, of the application's sufficiency, and forward the application to the Hearing Officer for the scheduling of a hearing.
- d) **Establishment of Date for Hearing by Hearing Officer and Notice.** Within 30 calendar days of the date that the application has been determined sufficient by the City Planner, the Hearing Officer shall schedule a hearing on the appeal for beneficial use determination. The City Planner shall provide the applicant and all landowners within 300 feet of the land subject to the appeal for beneficial use determination at least 15 days notice of the hearing by regular mail.
- e) **Hearing by Hearing Officer.** At the hearing, the applicant or the applicant's representative shall present the applicant's case and the City Attorney shall represent the City. All evidence presented shall be under oath, and the parties involved shall be permitted to cross-examine witnesses. The sworn testimony and evidence shall pertain to the standards set forth in § 8.3M.4: Beneficial Use Standards, as to whether the applicant has been deprived of an economically beneficial use of the land and the standards in § 8.3M.5: Granting of Relief, pertaining to the degree of relief needed to provide the landowner with an economically beneficial use of the land.
- f) **Findings of the Hearing Officer.** Within 30 days of the close of the hearing, the Hearing Officer shall prepare recommended findings of fact and a proposed order for the consideration of the City Commission. The findings and recommendations of the Hearing Officer as to whether the land is provided economically beneficial use shall be based on the evidence submitted and the standards in § 8.3M.4: Beneficial Use Standards. If the Hearing Officer finds that the applicant has been denied economically beneficial use of the subject land, then the Hearing Officer shall recommend a use that permits an economically beneficial use and results in a minimum change from the regulations of this Ordinance as they apply to the subject land, pursuant to the standards set forth in § 8.3M.4: Beneficial Use Standards, and § 8.3M.5: Granting of Relief, or other relief as is determined appropriate. The Hearing Officer's recommended findings of facts and proposed order shall be in writing and shall detail the basis of the conclusions from the record of the hearing.
- g) **Action by City Commission.** The City Planner shall schedule a hearing before the City Commission within 30 days of the date the Hearing Officer issues the recommended findings of fact and proposed order. The City Planner shall provide the applicant and all landowners within 300 feet of the land subject to the appeal for beneficial use determination at least 15 days notice of the hearing by mail. At the hearing, the City Commission shall approve the findings of fact and proposed order of the Hearing Officer, or may attach conditions, modify, or reverse the findings of fact or proposed order of the Hearing Officer, based on the standards of § 8.3M.4: Beneficial Use Standards, and § 8.3M.5: Granting of Relief. If the City Commission attaches conditions, modifies or reverses the findings of fact or proposed order, it shall do so only where the record of the hearing indicates that the Hearing Officer is unsupported by the record, or that the proposed order is not in conformance with the standards of § 8.3M.4: Beneficial Use Standards, and § 8.3M.5: Granting of Relief.

- § 8.3 4. Beneficial Use Standards. In determining if a landowner has been deprived of an economically beneficial use of land, the Hearing Officer and City Commission shall take into account the following factors: § 8.3
- a) Economically Viable Use. In making the determination of whether the land is provided an economically beneficial use, the Hearing Officer/City Commission shall first evaluate the uses of the land as provided by this Ordinance and the uses of land in relation to the uses provided similarly situated lands. For the purposes of this section, economically beneficial use means the opportunity to make a return equivalent to that which would have been received from a conservative financial investment. Transitory economic issues shall not be relevant to this determination.
  - b) Diminution in Value. The market value of the land, as established by the comparable sales approach, prior to adoption of this Ordinance, which caused the landowner to apply for relief shall be compared to the market value of the land, as established by the comparable sales approach, with the regulations as applied. Market value of the land prior to the adoption of this Ordinance shall constitute its highest and best use on (one day prior to the effective of this Ordinance, as amended) or the date of purchase of the land, whichever is later, and any other land value/appraisal information that the applicant would like to be considered. All appraisals shall be proposed by qualified licensed appraisers, and shall follow the best professional practices as established by the profession. A mere diminution in market value is not sufficient to support a determination of denial of economically beneficial use.
  - c) External Costs.
    - 1) The amount or nature of any subsidy that may be required by the City, neighbors, purchasers, tenants, or the public-at-large if the uses allowed under this Ordinance are modified; or
    - 2) Any other adverse effects on the City and its residents.
  - d) Current State of the Law. The state of the law established by the United States Supreme Court, the federal Circuit Courts of Appeals, and the Michigan Supreme Court, relevant to these standards.
5. Granting of Relief.
- a) Relief. If the finding is that a landowner has been deprived economically beneficial use of land, or is otherwise entitled to relief pursuant to the standards of this section, relief shall be granted.
  - b) General. In granting relief, the Hearing Officer may recommend and the City Commission may adopt any legally available incentive or measure reasonably necessary to offset any substantial economic hardship, and may condition such incentives upon approval of specific development plans. If there is a finding that the denial of the application would create a substantial economic hardship, the Hearing Officer may recommend and the City Commission may consider additional relief to provide an appropriate increase in market value or other benefit or return to the applicant sufficient to offset the substantial economic hardship. The types of incentives that the Hearing Officer may recommend and the City Commission may consider includes, but are not limited to, the following:
    - 1) An amendment of the Zone District Map (rezoning of property) to a more appropriate classification, issuance of a variance, approval of a site plan, or other appropriate land use regulatory action that will enable the applicant to realize a reasonable return on the property;
    - 2) An opportunity to transfer density or cluster development on other property;
    - 3) A waiver of permit fees;

- 4) Development finance assistance;
  - 5) Approval of development on some portion of the property; or
  - 6) Acquisition of all or a portion of the property at market value.
- c) Minimum Increase. In granting relief, the landowner shall be given the minimum increase in use density/intensity or other possible concessions from this Ordinance in order to permit an economically viable use of the land or a use that is determined to be required by law. The highest use, or even an average or generally reasonable expectation, is not required or intended as the appropriate remedy. The following guidelines shall be used for determining the minimum economically beneficial use of land and, therefore, the amount of relief to be granted a landowner in order to reach that minimum.
- 1) A minimum economically beneficial use of the land should be one that does not have any governmental subsidy attached to the long term safe occupation of the land. If such a subsidy is needed, then that should be reflected by lowering the use intensity that is considered a minimum economically viable use on a market valuation basis.
  - 2) A use common to the City, although it may not involve further development of the land, is considered an economically viable use. Attention shall also be given to land uses that are considered to be the lowest intensity in the City but which uses still provide for occupation and living within the City. These land uses, as well, shall be considered economically viable uses.
  - 3) The actual condition of the land shall be considered. The reality of limited development potential, given the natural condition of the land, shall not be attributed to the regulations applied to the land. If the land is such that it cannot safely accommodate development with normal grading and clearing practices, this fact shall lower the intensity of use that is considered a minimum economically viable use.
  - 4) The potential for damages to either residents or land shall be assessed in determining economically viable use. The need for a governmental subsidy to future landowners shall be considered, and the cost of such subsidies shall be deducted from the otherwise established minimum economically viable use.
  - 5) Expectations shall, in general, not be considered. Only reasonable expectations backed by investments as required by the current state of the law, shall be considered.
  - 6) The current state of law established by the United States Supreme Court, the federal Circuit Court of Appeals, and the Michigan Supreme Court, relevant to the granting of relief.
6. Appeal. The decision of the City Commission may be appealed to a court of law.



CHAPTER 9  
Nonconformities

**§ 9.1. General.**

- A. Purpose and Scope. It is the purpose of this Ordinance to establish regulations governing uses, structures, signs and lots that were lawfully established prior to this Ordinance but do not conform to one or more existing requirements of this Ordinance. The intent of this Ordinance is to regulate and limit these nonconformities until they are removed.
- B. Authority to Continue. Nonconforming uses, structures, signs and lots that legally existed on October 18, 2005, or that become nonconforming upon the adoption of any amendment to this Ordinance may be continued only in accordance with the provisions of this chapter. Unless otherwise expressly stated, any variation from these standards shall require review and approval of a variance, in accordance with the procedures and standards of § 8.3E: Variances.
- C. Determination of Nonconformity Status. The burden of establishing that any nonconformity is a legal nonconformity shall in all cases be upon the owner of the nonconformity.
- D. Repairs and Maintenance. Incidental repairs and normal maintenance of nonconformities shall be permitted unless such repairs increase the extent of nonconformity or are otherwise expressly prohibited by this Ordinance. Nothing in this chapter shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.
- E. Change of Tenancy or Ownership. The status of nonconformity is not affected by changes of tenancy, ownership or management.

**§ 9.2. Nonconforming Uses.**

Nonconforming uses are those uses that were legally established but no longer comply with the use regulations of the zone district in which they are located.

- A. Enlargement or Expansion. A nonconforming use shall not be enlarged or expanded in area, except that a nonconforming use may be enlarged in any area of the same structure that was manifestly designed for such use prior to the date the use became a nonconformity. The structure shall not be physically enlarged to accommodate a nonconforming use.
- B. Relocation. A nonconforming use shall not be moved in whole, or in part, to another location on the parcel of land on which it is located, unless the relocation of the nonconforming use decreases the nonconformity.
- C. Damage and Restoration of Structure Containing a Nonconforming Use. If a conforming structure containing a nonconforming use is damaged by any means to the extent of more than 50% of its actual cash value at the time damage occurs as determined by the City Assessor, the nonconforming use shall not be reestablished except in compliance with all regulations applicable to the zone district in which it is located. Any conforming structure that is damaged by any means to a lesser extent may continue the nonconforming use if it is reconstructed and used as before within one year of the damage.
- D. Change to Conforming Use. A nonconforming use may be changed to any use that is permitted in the zone district in which it is located, subject to the standards and requirements applicable to the new use.
- E. Conversion of Conforming Use. Once a nonconforming use is converted to a conforming use it may not be changed back to a nonconforming use.
- F. Change to Other Nonconforming Use. A nonconforming use may be changed to another nonconforming use only if reviewed and approved by the Zoning Board of Appeals. The Zoning Board of Appeals may approve such change of nonconforming use only if it determines that the new nonconforming use will not be more

§ 9.2 injurious to the surrounding area than the previous nonconforming use. If a change in use is approved, the Zoning Board of Appeals shall be authorized to impose conditions it deems necessary to reduce or minimize any potentially adverse effect upon other property in the neighborhood, and to carry out the general purpose and intent of this Ordinance. Any condition imposed shall relate to a situation created or aggravated by the proposed use and must be roughly proportional to its impact. § 9.3

G. Loss of Nonconforming Status.

1. Abandonment. Once abandoned, a nonconforming use shall not be reestablished or resumed. Any subsequent use or occupancy of the structure or open land must comply with the regulations of the zone district in which it is located and all other applicable requirements of this Ordinance.
2. Evidence of Abandonment. A nonconforming use shall be presumed abandoned and its rights as a nonconforming use extinguished when any one of the following has occurred:
  - a) Intent to abandon. The owner has in writing or by public statement indicated intent to abandon the use.
  - b) Conforming use. A conforming use has replaced the nonconforming use.
  - c) Building or structure removed. The building or structure housing the nonconforming use has been removed.
  - d) Building or equipment change indicates change in use. The owner has physically changed the building or structure or its permanent equipment in a manner that clearly indicates a change in use or activity to something other than the nonconforming use.
  - e) Use discontinued or inactive for one year. The use has been discontinued, vacant or inactive for a continuous period of at least one year, regardless of ownership.
3. Overcoming Presumption of Abandonment. A presumption of abandonment based on the evidence of abandonment stated in § 9.2G.2: Evidence of Abandonment, may be rebutted upon a showing that the owner:
  - a) Conforms with relevant regulations. Has been maintaining the land and structure in accordance with all applicable regulations, including the Building Code, and did not intend to discontinue the use.
  - b) No intent of abandonment. Has been engaged in other activities that would affirmatively prove there was not intent to abandon.
  - c) Licenses. Has been maintaining all applicable licenses.
  - d) Tax documents. Has filed all applicable tax documents.

**§ 9.3. Nonconforming Structures.**

Nonconforming structures are those structures that were legally established but no longer comply with the intensity and dimensional standards of the zone district in which they are located.

- A. Use. A nonconforming structure may be used for any use allowed in the underlying zone district, subject to all applicable use standards.
- B. Expansion. A nonconforming structure may be enlarged or expanded only if the expansion does not increase the extent of nonconformity.
- C. Moving. A nonconforming structure may be moved if the movement or relocation eliminates the

§ 9.3  
nonconformity.

§ 9.4

D. Loss of Nonconforming Status; Damage or Destruction.

1. **Principal Structures.** Except for single-family dwellings existing on October 18, 2005, any nonconforming principal structure that is destroyed by any means to the extent of more than 50% of its actual cash value at the time damage occurs as determined by the City Assessor, shall not be reestablished except in compliance with all regulations applicable to the zone district in which it is located. Any nonconforming structure that is damaged to a lesser extent may continue if repairs or reconstruction is undertaken within one year of the date of the partial destruction and diligently carried on to its completion.
2. **Accessory Structures.** Except for an accessory structure to a single-family dwelling existing on October 18, 2005, no nonconforming structure that is accessory to a principal structure shall continue after such accessory structure has been destroyed by more than 50% of its actual cash value at the time damage occurs as determined by the City Assessor, unless the accessory structure complies with all applicable regulations of this Ordinance. In the RD zones, nonconforming residential dwellings containing two units can be rebuilt, regardless of the extent of the damage, if: a) the rebuilding does not increase the nonconformity, and b) if any of the units are renter-occupied, a valid Certificate of Compliance issued by the City was in effect at the time of the damage. If these two conditions are not met, the dwelling can only be rebuilt in compliance with all regulations applicable to the zone district. In the RM zones, nonconforming residential dwellings containing two to four units can be rebuilt, regardless of the extent of the damage, if: a) the rebuilding does not increase the nonconformity, and b) if any of the units are renter-occupied, a valid Certificate of Compliance issued by the City was in effect at the time of the damage. If these two conditions are not met, the dwelling can only be rebuilt in compliance with all regulations applicable to the zone district. Any nonconforming accessory structure that is damaged to a lesser extent may continue if repairs or reconstruction is undertaken within one year of the date of the partial destruction and diligently carried on to its completion. **[Amended 3-19-2007 by Ord. No. 1822]**

**§ 9.4. Nonconforming Lots. [Amended 3-19-2007 by Ord. No. 1822]**

Nonconforming lots are those lots that were legally established, such as lots of record, but no longer comply with the minimum area or width standards of the zone district in which they are located.

- A. **Vacant Lots.** If the nonconforming lot was vacant at the time it became legally nonconforming, it may be used for any use allowed in the underlying zone district. If one or more uses or intensities would comply with applicable setback requirements of the underlying zone district while others would not, then only the uses or intensities that would conform to applicable setback requirements shall be permitted. Development on nonconforming lots shall comply with the dimensional standards of the underlying zone district, except as expressly stated in this section.
- B. **Developed Lots.** If the nonconforming lot contained a building or structure at the time it became nonconforming, then the building or structure may be maintained or expanded in accordance with the standards of § 9.3: Nonconforming Structures.
- C. **Nonconformities Created by Government Action.**
  1. **General Provision.** When the Michigan Department of Transportation, the Kalamazoo County Road Commission, the City of Kalamazoo, or any other governmental entity acquires additional right-of-way for the purpose of street construction, street relocation, street widening, or utilities, and the result of such acquisition is to create a nonconformity with the minimum setback, lot width, lot area, parking requirements, or any other requirement of this Ordinance, any existing lot, building, or structure rendered nonconforming by such action shall thereafter be permitted to be altered, enlarged, or rebuilt as set forth in Subsection 2 below. This provision shall apply regardless of whether the additional right-of-way was acquired through the exercise of eminent domain powers, or by transfer under the threat of

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eminent domain proceedings.

2. Limitations. Any alteration, enlargement, or rebuilding of a lot, building, or structure affected by government action as described in Subsection 1 above, shall be limited to actions that do not increase its nonconformity. As an example, a structure would be permitted to be altered, enlarged, or rebuilt provided that such action would not further reduce the setback distance to the front property line or further reduce the number of permissible parking spaces. In addition, any alteration, enlargement, or rebuilding shall comply with the following provisions.
  - a) Damages minimized. If the condemnation action has not been decided by a court of law, the amount of severance and business damages resulting from the eminent domain proceedings are substantial, and the loss of business damages would be minimized by a determination for conformity;
  - b) Site plan. A site plan can be designed for the land that is consistent with the use requirements of this Ordinance, and minimizes to the greatest degree practicable any nonconformities of parking, loading, landscaping, lot size, and yard requirements; and
  - c) Nonconformities minimized. The structure or lot can function adequately for its designated land use pursuant to a proposed site plan that minimizes nonconformities while ensuring compatibility.

## § 9.5

### § 9.5. Nonconforming Signs.

A nonconforming sign is a sign that exceeds the surface and/or height limitations of Chapter 7: Signs, is a type of sign that is not permitted, or is placed in a location that is not permitted by this Ordinance.

- A. Continuation of Nonconforming Signs. A nonconforming sign shall not:
  1. Be changed to another nonconforming sign.
  2. Be structurally altered or changed in shape, size, location or design, except to bring the sign into complete conformity with this Ordinance.
  3. Have any change made in the words or symbols used or the message displayed on the sign.
  4. Be structurally altered so as to prolong the life of the sign or change the shape, size, type or design of the sign.
  5. Be re-established after the business, service, or activity to which it relates is discontinued for 30 days or longer (and the nonconforming sign and all supporting structures shall be removed).
  6. Be re-established after damage caused by accident, natural causes, or vandalism, if the damage is in excess of 50% of its actual cash value at the time damage occurs as determined by the City Assessor.
- B. Normal Maintenance of Nonconforming Signs. Subject to the other provisions of this section, nonconforming signs may have normal maintenance performed.
- C. Change to Face of Nonconforming Sign. The owner of a nonconforming sign may change the face of a nonconforming sign if the owner enters into an agreement with the City that complies with the following requirements. For the purposes of this subsection, the "face of a nonconforming sign" is defined as the area of the sign that displays the name, identification, description, illustration, business or solicitation (it does not include any portion of the structural support of the sign or changeable copy area):
  1. Removal of sign within five years. That states that in exchange for the opportunity to change the face of the sign, the entire nonconforming sign, which includes the face and structure, shall be removed within five years of entering into the agreement.

- § 9.5
2. Owner(s) pay for removal. The owner of the sign and/or the owner of the land on which the sign is located will pay for removal of the sign. § 9.6
3. No variance. The owner of the sign and the owner of the land on which the sign is located waives the right to request a variance from the Zoning Board of Appeals so that the sign can remain after five years.
4. Agreement runs with land. The agreement shall run with the land and become binding on any subsequent owners of the sign or owners of the land on which the sign is located.
5. Future sign comply with this Ordinance Any future sign constructed to replace the sign (if it is appropriate), shall comply with the requirements of Chapter 7: Signs
6. Recording. The agreement shall be recorded with the Register of Deeds by the owner of the sign within 30 days of the execution of the agreement, or the agreement shall be null and void.
7. Lien. A lien in the amount of 150% of the estimated cost of removing the sign shall be placed against the land on which the sign is located and any structure on the land on which the sign is located five years from the date of the execution of the agreement, and shall remain effective until the sign is removed.

**§ 9.6. Elimination of Nonconforming Use by City.**

Pursuant to Public Act 207 of 1921 (MCLA § 125.583a, as amended), the City Commission may, from to time, acquire properties on which nonconforming uses or structures are located, by condemnation or otherwise, and may remove such uses or structures and lease or sell the property for a conforming use or develop it for a public use, other than public housing. The net cost of such acquisition may be assessed against a benefit district or may be paid from other sources of revenue.



CHAPTER 10  
**Violations, Penalties and Enforcement**

**§ 10.1. Enforcement.**

- A. **City Planner Enforces Ordinance.** In accordance with Section 125 of the Michigan City and Village Zoning Act, Pub. Act 207 of 1921,<sup>206</sup> the City Planner shall be responsible for enforcing any provision of this Ordinance:
1. Through the issuance either of a municipal civil infraction violation notice or of a municipal civil infraction citation; or
  2. Through the institution of appropriate legal action to prevent, restrain, correct, enjoin or abate any violation of the provisions of this Ordinance; or
  3. Through legal action to abate a public or private nuisance.
- B. **On-Site Inspections Authorized.** In any municipal civil infraction action, or any action or proceeding in equity for the violation of any provision of this Ordinance, the City Planner shall have the authority to conduct an on-site inspection of the land where such violation is alleged to have occurred.

**§ 10.2. Violations.**

- A. **Violation Deemed a Public Nuisance.** Any violation of this Ordinance shall be deemed a public nuisance.
- B. **Violation Deemed a Municipal Civil Infraction.** Any violation of this Ordinance and/or the terms and conditions of this Ordinance is deemed a municipal infraction, and proceedings shall be instituted pursuant to Chapter 1, § 1-7 of the Code of Ordinances of the City of Kalamazoo.
- C. **Proceeding in Equity.** The City of Kalamazoo may institute an appropriate legal action or court proceeding to prevent, restrain, correct, or abate any violation of the provisions of this Ordinance.
- D. **Parking, Storage, Placing Vehicle on Land or Premises.** In any municipal civil infraction action, or any action or proceeding in equity for the violation of any provision of this Ordinance that concerns the parking, storing, or placing of a motor vehicle upon land or premises, the registration plate attached to such motor vehicle shall constitute prima facie evidence that the owner of such motor vehicle was the person who parked, stored, or placed such motor vehicle upon the land of the premises where such violation is alleged to have occurred.
- E. **Permits and Approvals.** In this chapter 10, any reference to a requirement of this Ordinance, or with any permit, approval, or authorization of a type referenced in this Ordinance, shall include, but shall not be limited to, any requirement, condition, or limitation contained in a site plan, Institutional Master Plan, PUD Plan or any other form of plan approved pursuant to this Ordinance.
- F. **Types of Violations.** Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided for in this Ordinance.
1. **Development without permit or approval.** To engage in any development, construction, remodeling, alteration, placement of signs, or other activity of any nature upon land that is subject to this Ordinance without all of the approvals required by this Ordinance.
  2. **Development, use or sign inconsistent with permit or approval.** To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approved site plan, approval, certificate, or other form of authorization

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**206. Editor's Note:** See MCLA § 125.581 et seq. The City and Village Zoning Act was repealed by PA 2006, No. 110, effective 7-1-2006. See now MCLA § 125.3701 et seq.

## § 10.2

required in order to engage in such activity.

## § 10.3

3. Development, use or sign inconsistent with conditions. To violate, by act or omission, any term, condition, or qualification placed upon any permit, approval, or other form of authorization.
  4. Violating dimensional requirements. To reduce or diminish any lot area so that the lot size, setbacks or open spaces shall be smaller than prescribed by this Ordinance or to increase the height or bulk of any building or structure in violation of the requirements of this Ordinance.
  5. Increasing intensity or density of use. To increase the intensity or density of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Ordinance.
  6. Removing or defacing required notice. To remove, deface, obscure or otherwise interfere with any notice required by this Ordinance.
  7. Failure to remove signs. To fail to remove any sign installed, created, erected or maintained in violation of this Ordinance, or for which the sign permit has lapsed.
  8. Obtaining permit or approval in a fraudulent manner. To obtain any permit, approval, certificate, or other form of authorization required by this Ordinance in a fraudulent manner.
  9. All other violations. To establish or operate other activities, structures or land uses in violation of any specific provisions, or the general purpose and intent of this Ordinance.
- G. Violations of Adult Regulated Use Regulations by Employee. Notwithstanding anything to the contrary, for the purposes of this Ordinance, an act by an employee shall be imputed to the adult regulated use for the purpose of establishing a violation of this Ordinance only if an employee or operator of the adult regulated use knowingly allowed a violation of this Ordinance to occur. It shall be a defense to liability that the employee or operator was powerless to prevent the violation.
- H. Continuing Violations. Each day that a violation remains uncorrected after receiving notice of the violation from the City shall constitute a separate violation of this Ordinance. The imposition of a fine or penalty under this chapter shall not be construed to excuse or to permit the continuation of any violation.
- I. Remedies Cumulative. The remedies and enforcement powers established in this chapter shall be cumulative, and the City may exercise them in any order.

### § 10.3. Penalties.

- A. General. Any person, corporation, firm or partnership, or anyone acting on behalf of any person, corporation, firm or partnership, who admits responsibility or is found to be responsible through a municipal civil infraction determination for violation of any provision of this Ordinance shall be fined up to \$500 for each day of the violation pursuant to § 10.2H: Continuing Violations.
- B. Repeat Offenses. Each time a violation of this Ordinance occurs and a citation is issued by the City and resolved pursuant to this chapter 10, but the same violation occurs on the same property within six months after the prior citation, the amount of the daily fine for such violation shall double. For example, if a violation of this Ordinance occurs and is resolved, but a second citation is issued for the same offense on the same property within six months after the date of the first citation, the fine shall be \$1,000 for each day of the violation. If the second violation is resolved, but a third citation is issued for the same offense on the same property within six months after the second citation, the fine shall be \$2,000 per day of the violation.
- C. Civil Fines. In the case of a firm or a partnership, the civil fine may be imposed upon the partners or members. In the case of a corporation, the civil fine may be imposed upon the officers of the corporation.
- D. Lien. The City may impose a lien on property of any person, corporation, firm or partnership, or other entity



§ 10.3 upon whom a municipal civil infraction is imposed pursuant to the chapter to recover the amount of any § 10.4 unpaid civil infraction.

- E. Additional Penalties for Violation of Adult Use Provisions. Any person, business, or entity violating or refusing to comply with any provisions of § 4.2B: Adult Regulated Uses, shall, upon conviction in a court of competent jurisdiction, be deemed guilty of a misdemeanor and shall be punished by imposition of a fine not to exceed \$500 or by imprisonment for a period not to exceed 90 days, or both. Any premises, building, dwelling, or other structure in which an adult regulated use is repeatedly operated or maintained in violation of the provisions of this Ordinance shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the City in a court of competent jurisdiction.

#### § 10.4. Remedies and Enforcement Powers.

The City shall also have the following remedies and enforcement powers:

- A. Withhold Permit.
1. Uncorrected violation or condition or qualification of a permit, approval, certificate, or other authorization. The City may deny or withhold any and all permits, approvals, certificates, or other forms of authorization from an applicant on any land or structure or improvements when there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, approval, certificate, or other authorization previously granted by the City. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.
  2. Persons who own, develop or otherwise cause an unauthorized violation. The City may deny or withhold all permits, approvals, certificates or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, approval, certificate, or other authorization previously granted by the City. This provision shall apply regardless of whether the property for which the permit or other approval is sought is the property in violation.
- B. Permits Approved with Conditions. In addition to withholding or denying a permit or other authorization, the City may grant such permit or other authorization subject to the condition that the violation be corrected.
- C. Revoke Permits. Any development permit or other form of authorization required under this Ordinance may be revoked pursuant to § 10.6: Revocation, when the City determines that (1) there is departure from the plans, specifications, or conditions as required under terms of the permit; (2) that the development permit was procured by false representation or was issued in error; or (3) that any of the provisions of this Ordinance are being violated. Any permit or other authorization revoked under this procedure shall become null and void.
- D. Stop Work. With or without revoking permits, the City may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this Ordinance or of a permit or other form of authorization issued, in accordance with its power to stop work under this Ordinance and the City building codes.
- E. Injunctive Relief. The City may seek an injunction or other equitable relief in court to stop any violation of this Ordinance or of a permit, approval, certificate or other form of authorization granted by this chapter.
- F. Abatement. The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.
- G. Other Remedies. The City shall have such other remedies as are and as may be from time to time provided by

§ 10.4 Michigan law for the violation of zoning, sign or related Ordinance provisions.

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- H. Other Powers. In addition to the enforcement powers specified in this chapter, the City may exercise any and all enforcement powers granted by Michigan law.
- I. Continuation. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions undertaken by any officer of the City pursuant to previous and valid ordinances and laws.

**§ 10.5. Enforcement Procedures.**

- A. Nonemergency Matters. In the case of violations of this Ordinance that do not constitute an emergency or require immediate attention, the City shall give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner hereafter stated, after which the persons receiving notice shall have 10 days to correct the violation before further enforcement action may be taken. Notice shall be given by United States mail, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected. The City shall keep a record of all persons notified by mail.
- B. Emergency Matters. In the case of violations of this Ordinance that constitute an emergency as a result of safety or public concerns or violations that will create increased problems or costs if not remedied immediately, the City may use the enforcement powers available under this chapter without prior notice, but shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who is party to the agreement and to applicants for any relevant permit.

**§ 10.6. Revocation.**

- A. Duties of City Planner. The revocation process shall be initiated by the City Planner upon a determination that there are reasonable grounds for revocation of the subject permit or development approval.
- B. Authority to Revoke. The decisionmaking body that approved the permit or development approval shall be authorized to revoke the permit or development approval.
- C. Notice of Revocation Hearing. Notice of a revocation hearing shall be given in the same manner as required for the public hearing at which approval was granted. If no notice was required for approval, none shall be required for the revocation hearing, provided that notice shall be mailed to the owner of the use or structure for which the permit was granted at least 10 days prior to the hearing.
- D. Decision, and Notice of Decision.
  - 1. Hearing. At the hearing, the decisionmaking body shall hear testimony of the City Planner, the owner of the use or structure for which the permit or approval was granted, if present, and any other interested persons.
  - 2. Required findings. The decisionmaking body shall revoke the permit or approval upon making one or more of the following findings:
    - a) Erroneous or misleading. The permit was issued on the basis of erroneous or misleading information or misrepresentation;
    - b) Violation of terms or conditions. The terms or conditions of the approved site plan, permit or development approval have been violated or that other laws or regulations have been violated; or
    - c) Discontinuance. There has been a discontinuance of the exercise of the entitlement granted by the permit or development approval for 180 consecutive days.

- § 10.6
3. Matter subject to public hearing. Within 10 working days of the conclusion of the public hearing, the decisionmaking body shall render a decision, and shall mail notice of the decision to the owner of the use or structure for which the permit was revoked and to any other person who has filed a written request for such notice. § 10.6
4. Matter not subject to public hearing. Within three working days of a decision on a revocation matter that is not the subject of a public hearing, the decisionmaking body shall mail notice of the decision to the owner of the use or structure for which the permit was revoked and to any other person who has filed a written request for such notice.
- E. When Effective. A decision to revoke a permit or development approval shall become final immediately after the date of the decision. The date on which the revocation of a permit or development approval shall become effective shall be specified in the written decision and order of the revocation hearing.



CHAPTER 11  
**Review and Decisionmaking Bodies**

**§ 11.1. City Commission.**

- A. Powers and Duties. In addition to any authority granted the City Commission by charter, ordinance or state law (this provision is not intended to in any way limit the City Commission's power and authority), the Commission shall have the following powers and duties under this Ordinance:
1. Amendments to Text and Zone District Map. To review, hear, consider and approve or disapprove:
    - a) Text amendments. Petitions to amend the text of this Ordinance pursuant to § 8.3B: Amendments to Text of Zoning Ordinance or Zone District Map.
    - b) Zone District Map amendments (Rezoning). Petitions to amend the Zone District Map pursuant to § 8.3B: Amendments to Text of Zoning Ordinance or Zone District Map.
  2. Planned Unit Development Overlay (PUD-O) District Classification. To review, hear, consider and approve, approve with conditions or disapprove petitions for amendments to the Zone District Map to a Planned Unit Development Overlay (PUD-O) District classification pursuant to § 8.3C: Planned Unit Development Overlay (PUD-O) District.
  3. Beneficial Use Determination. To review and make determinations on requests for beneficial use determinations pursuant to § 8.3M: Beneficial Use Determinations.
  4. Initiate Amendments to Text and Zone District Map. To initiate petitions to the text of this Ordinance and the Zone District Map.
  5. Other. To take any other action not delegated to the Planning Commission, Zoning Board of Appeals or heads of City departments, as the City Commission may deem desirable and necessary to implement the provisions of this Ordinance.

**§ 11.2. Planning Commission. [Amended 3-19-2007 by Ord. No. 1822; 6-20-2011 by Ord. No. 1883]**

- A. Intent and Purpose.
1. The City of Kalamazoo by Ordinance No. 340, dated January 8, 1951, did establish the City of Kalamazoo Planning Commission, codified as §§ 2-58 through 2-67 under Article IV, Chapter Two of the City Code for the City of Kalamazoo.
  2. The powers and duties of the Planning Commission are also set forth in § 11.2 under Chapter 11 of Appendix A, Zoning Ordinance.
  3. Under P.A. 33 of 2008 the State of Michigan enacted the Michigan Planning Enabling Act, MCLA 125.3801 et. seq (Planning Act), which repealed the Municipal Planning Act, County Planning Act, and Township Planning Act.
  4. The Planning Act authorizes the creation and/or continuation of a planning commission to address and recommend planning and zoning ordinances, master or neighborhood plans and similar actions in the City of Kalamazoo; to organize, enumerate powers and duties; to provide for the regulation and subdivision of land, coordinated and harmonious development of the City; and to function in cooperation with other constituted authorities of incorporated and unincorporated areas within the County of Kalamazoo.
  5. To ensure that proper record of action is noted and the provisions of the City Code and Zoning Ordinance are in compliance with the Planning Act, as amended, it is now desired to repeal Article IV,

§ 11.2 Chapter Two of the City Code for the City of Kalamazoo and to replace § 11.2, Chapter 11 of Appendix A, Zoning Ordinance by adopting this ordinance. § 11.2

B. Creation of Planning Commission. The City of Kalamazoo Planning Commission (Commission) is created pursuant to the Planning Act, with the powers and duties as set forth and provided under the Planning Act and this ordinance. This ordinance shall be officially known and described as the "City of Kalamazoo Planning Commission Ordinance."

C. Membership.

1. The Commission shall consist of nine members appointed by the Mayor, with the approval of a majority vote of the City Commission. The individuals currently serving as members of the Commission shall continue to serve for the remainder of that individual's term.
2. An individual shall be a qualified elector of the City of Kalamazoo, in order to be appointed and to continue to serve as a member of the Commission.
3. The membership shall be representative of the important geographic and interest segments which are detailed in the Planning Act and which exist in and are relevant to the City of Kalamazoo.
4. Members shall be appointed for three-year terms. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of 1/3 of all Commission members continue to expire each year. A member shall hold office until his or her successor is appointed.
5. Members shall serve no more than two consecutive full terms, not counting when a member is appointed to fill an expired term when a vacancy occurs.
6. Membership on the Commission shall otherwise comply with Rule 12 of the City Commission Rules, as amended.

D. Removal from Office.

1. The City Commission may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Commission meetings, in accordance with City Commission Rule 12, shall be considered nonfeasance in office.
2. The Secretary of the Planning Commission shall report to the City Commission any member who has missed three regular meetings in a row without having made a request to be absent from a meeting for just cause.

E. Meetings.

1. The Commission shall meet at least four times in any calendar year. The Commission may meet more regularly than required under the Planning Act. The Commission shall publish the dates, times and places of its regular meetings in accordance with the provisions of the Open Meeting Act, MCLA 15.265, as amended.
2. A majority of the Commission shall constitute a quorum for the transaction of the ordinary business of the Commission. All questions which shall arise at a meeting where a quorum is present shall be determined by a majority vote of the members present at such meeting. If at any time during a public hearing a quorum is lost, it shall be stated in the minutes, and no final action on a matter shall be taken by the Commission.
3. The affirmative vote of six members of the Commission, regardless if vacancies or absences exist, shall be necessary for the adoption, or recommendation for adoption, of any land use plan or amendment to a

§ 11.2 land use plan.

§ 11.2

F. Powers and Duties.

1. The Commission shall have the powers and duties as set forth in the Planning Act, and P.A. 110 of the Public Acts of 2006, the Michigan Zoning Enabling Act (Zoning Act), (MCLA 125.3101 et seq.), including any amendments to those acts. The Commission is also subject to all limitations of those powers and duties as provided in either the Planning Act or Zoning Act, or any other federal or state statute.
2. Consistent with, and without limiting, the powers and duties provided under the Planning Act or Zoning Act, the Commission shall have the following powers and duties under this ordinance:
  - a) To review, hear, consider and make recommendations to the City Commission to approve or disapprove:
    - 1) Text amendments. Petitions to amend the text of this Ordinance pursuant to § 8.3B, Amendments to Text of Zoning Ordinance or Zone District Map.
    - 2) Zone District Map amendments (Rezoning). Petitions to amend the Zone District Map pursuant to § 8.3B, Amendments to Text of Zoning Ordinance or Zone District Map
  - b) To review, hear, consider and make recommendations to the City Commission to approve, approve with conditions or disapprove petitions for amendments to the Zone District Map to a Planned Unit Development Overlay District classification pursuant to § 8.3C, Planned Unit Development Overlay (PUD-O) District.
  - c) To review, hear, consider and approve, approve with conditions or disapprove special use permits pursuant to § 8.3D, Special Use Permit.
  - d) To review, hear, consider and approve, approve with conditions or disapprove site plans in the CBTR District pursuant to § 8.3H, Site Plan.
  - e) To initiate petitions to amend the text of this Ordinance or the Zone District Map.
  - f) To recommend to the City Commission the adoption of an ordinance or rules governing the subdivision of land as authorized under the Land Division Act (MCLA 560.101 et.seq.) or the development of property under the Condominium Act (MCLA 559.101 et. seq.)
  - g) To make its special knowledge and expertise available upon written request and authorization of the City Commission to any official, department, board, commission or agency of the City.
  - h) To make studies of the resources, possibilities and needs of the City upon the authorization of the City Commission, and report its findings and recommendations, with reference thereto, to the City Commission.

G. Staff-City Employees.

1. To assist the Commission in carrying out its powers and duties under the Planning or Zoning Acts, or otherwise carrying out its functions as a planning commission, the City Planner and employees within the Community Planning and Development Department, as designated by the City Planner or the Director of that Department, shall be made available,
2. Employees that are assigned to work with the Commission shall follow the directives of the Commission in matters of planning and zoning public policy issues, but shall not be subject to Commission directives concerning employment provisions of law, employment policies, employee roster, and employee or union contracts, if any.

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H. Conflicts Between Ordinance and Planning Act. If a conflict between any provisions of this ordinance and the Planning Act or Zoning Act, as amended, exists, the provisions of those Acts shall prevail. § 11.3

**§ 11.3. Zoning Board of Appeals.**

- A. Establishment. There is hereby established the Zoning Board of Appeals.
- B. Powers and Duties. The Zoning Board of Appeals shall have the following powers and duties under this Ordinance:
  - 1. Variances. To review, hear, consider and approve, approve with conditions or disapprove variances pursuant to § 8.3E: Variances.
  - 2. Appeals of Administrative Decisions. To hear, review, consider, and affirm, modify or reverse any order, decision, determination or interpretation of the City Planner or any other administrative official made under the terms of this Ordinance pursuant to § 8.3F: Appeal of Administrative Decisions.
  - 3. Change in Nonconforming Use. To review, hear, consider and approve, approve with conditions or disapprove a change of one nonconforming use to another nonconforming use pursuant to § 9.2F: Change to Other Nonconforming Use.
- C. Membership.
  - 1. Number. The Zoning Board of Appeals shall consist of six regular members, and two alternate members. The members of the Zoning Board of Appeals on October 18, 2005, shall be the members of the Board without change to the length of their terms of office.
  - 2. No Elected Official or City Employees. No member of the City Commission or a City employee shall serve on the Zoning Board of Appeals.
  - 3. Appointment. Members and alternate members of the Zoning Board of Appeals shall be appointed by the City Commission.
  - 4. Term. The term of appointment shall be for three years. No member shall serve more than two full, concurrent, consecutive terms.
  - 5. Filling Vacancy. Any vacancy on the Zoning Board of Appeals shall be filled for the unexpired term in the same manner as in the case of the original appointment.
  - 6. Alternate Members. The alternate members shall consist of a first alternate member and a second alternate member. The alternate member with the most seniority on the Zoning Board of Appeals shall be the first alternate. The alternate members may take part in all deliberations of the Zoning Board of Appeals but shall not have a vote unless a regular member is unable to vote because of absence or a conflict of interest. The first alternate member shall have priority to replace the first regular member that is absent or unable to vote. The second alternate member shall replace the second regular member that is absent or unable to vote.
- D. Quorum. No meeting of the Zoning Board of Appeals shall be called to order, nor may any business be transacted by the Board without a quorum consisting of at least four members (either regular or alternate) being present.
- E. Rules of Procedure. The Zoning Board of Appeals shall, by a majority vote of its entire membership, adopt rules of procedure governing its procedures on such matters as officers, voting, meetings, compensation and related matters as it may consider necessary or advisable.
- F. Appeals. An appeal of a decision by the Zoning Board or Appeals must be filed with the Circuit Court within 30 days after the Board makes its decision in writing, or within 21 days after the Board approves the minutes



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of the meeting. [Added 6-20-2011 by Ord. No. 1884]

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**§ 11.4. Site Plan Review Committee (SPRC).**

- A. Powers and Duties. The Site Plan Review Committee (SPRC) shall have the following powers and duties under this Ordinance:
1. Action on Site Plans. To review, hear, consider and approve, approve with conditions or disapprove site plans, except in the CBTR District, pursuant to § 8.3H: Site Plans.
  2. Advisory action on Site Plans. To review, hear, consider and take advisory action on site plans in the CBTR District pursuant to § 8.3H: Site Plans.
- B. Outside Opinions. In the course of its duties, the SPRC may solicit any knowledgeable individual or organization regarding any aspect of the proposed development or its potential impacts, and may base its decision as to whether the proposed development complies with applicable standards on the opinions or recommendations received from such individuals or organizations.
- C. Membership. The SPRC shall consist of staff members, designated by the department head, from the following divisions: Planning, Code Administration, Public Safety, Public Services, and others so designated by the City Manager. The Chair of the SPRC shall be the staff member assigned from the Community Planning and Development Department. The Chair of the Planning Commission, or his/her designee, shall also be a member of the SPRC.
- D. Rules of Procedure. The SPRC may, by a majority vote of the entire membership, adopt rules governing its procedure as it may deem necessary or advisable.

**§ 11.5. Downtown Design Review Committee (DDRC).**

- A. Powers and Duties. The DDRC shall have those powers and duties established for it by the City Commission by resolution.
- B. Membership. The membership of the DDRC shall be as established by the City Commission by resolution.
- C. Rules of Procedure. The DDRC shall, by a majority vote of the entire membership, adopt rules governing its procedure as it may deem necessary or advisable to carry out its powers and duties.

**§ 11.6. City Planner.**

- A. General Authorization. The official authorized to administer this Ordinance by the City Manager shall be the City Planner.
- B. Powers and Duties. In addition to the jurisdiction, authority and duties that may be conferred upon the City Planner by other provisions of this Ordinance and general or special law, the City Planner shall have the following jurisdiction, powers and duties under this Ordinance:
1. Administrative Adjustments. To review, hear, consider and approve or disapprove administrative adjustments pursuant to § 8.3G: Administrative Adjustments.
  2. Temporary Use Permit. To review, hear, consider and approve, approve with conditions or disapprove temporary use permits pursuant to § 8.3J: Temporary Use Permits.
  3. Minor Deviations. To review, hear, consider and approve, approve with conditions or disapprove minor deviations for PUDs and site plans pursuant to § 8.3C.11: Planned Unit Development Overlay (PUD-O) Districts and § 8.3H.: Site Plans.
  4. Interpretations. To render interpretations of all provisions of this Ordinance, including interpretations of

§ 11.6 the text of this Ordinance; interpretations of the Zone District Map boundaries; and determinations of whether an unspecified use falls within a use classification or use group allowed in a zone district pursuant to § 8.3L: Interpretations. § 11.9

5. Enforcement. To enforce the provisions of this Ordinance.
6. Administer Ordinance. To establish application requirements and schedules for review of applications and appeals, to review and make recommendations to the City Commission, Planning Commission and Zoning Board of Appeals on all applications for development approval considered by those boards, and take any other actions necessary to administer the provisions of this Ordinance.
7. Provide Expertise and Technical Assistance. To provide expertise and technical assistance to the City Commission, Planning Commission and Zoning Board of Appeals, upon request.

**§ 11.7. Zoning Inspector.**

- A. Powers and Duties. In addition to the jurisdiction, authority and other duties that may be conferred upon the Zoning Inspector by other provisions of this Ordinance, charter and state law, the Zoning Inspector shall have the following jurisdiction, powers and duties under this Ordinance:
  1. Approval of Zoning Compliance. To review, consider and approve or disapprove Approvals of Zoning Compliance pursuant to § 8.3K: Approval of Zoning Compliance.
  2. Permits. To review, consider and approve or disapprove all applicable permits pursuant to this Ordinance.

**§ 11.8. City Attorney.**

- A. Powers and Duties. In addition to the jurisdiction, authority and other duties that may be conferred upon the City Attorney by other provisions of this Ordinance, charter and state law, the City Attorney shall have the following jurisdiction, powers and duties under this Ordinance:
  1. General. To review and approve as to form ordinances and, as appropriate, other documents drafted by the City departments, the City Commission, the Planning Commission and the Zoning Board of Appeals, in connection with any requirement of this Ordinance.
  2. Agreements, Easements, Performance Agreements. To review as to form all planned unit development agreements, and as appropriate, easements, declarations of covenants, letters of credit, performance bonds or such other documentation in connection with any requirement of this Ordinance.
  3. Counsel. To counsel the City Commission, the Planning Commission, the Zoning Board of Appeals, the City Planner, the Zoning Inspector and the City departments in regard to the legal issues that may arise in the review of applications for development approval and the general implementation of this Ordinance.

**§ 11.9. Hearing Officer.**

- A. Creation and Appointment. The City Commission shall confirm one or more Hearing Officers to hear and consider such matters as may be required to be conducted by a Hearing Officer under any provision of this Ordinance or as may be determined to be appropriate. Such Hearing Officer(s) shall serve at the pleasure of the City Commission for such period as is determined by the City Commission. The Hearing Officers shall be compensated at a rate to be determined by the City Commission. Whoever shall accept an appointment as a Hearing Officer shall, for a period of one year from the date of termination as holder of such office, not act as agent or attorney in any proceeding, application or other matter before any decision-making body of the City in any matter involving land that was the subject of a proceeding that was pending during the time served as

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a Hearing Officer.

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- B. Minimum Qualifications. A Hearing Officer shall have the following minimum qualifications:
1. Professional Experience. Demonstrated knowledge of administrative, zoning and land use planning and law and procedures.
  2. No Appointive or Elective Office. Hold no other appointive or elective public office or position in the City during the period of appointment.
- C. Powers and Duties. A Hearing Officer shall have the following duties:
1. Beneficial Use Determination. To conduct hearings on appeals for beneficial use determinations and recommend approval, approval with conditions or disapproval to the City Commission pursuant to § 8.3M: Beneficial Use Determination.
  2. Subpoenas, Production of Documents and Oaths. To issue subpoenas to compel the attendance of witnesses and production of documents, and to administer oaths to witnesses appearing at hearings.
  3. Other. To perform such other tasks as the City Commission may assign.



CHAPTER 12  
**Definitions and Use Categories**

For the purpose of this Ordinance certain terms, words and phrases shall, whenever used in this Ordinance, have the meaning defined as follows:

**§ 12.1. Rules of Construction.**

All words used in the present tense shall include the future; all words in the singular number include the plural number and all words in the plural number include the singular number; the word "building" includes the word "structure," and "dwelling" includes "residence"; the word "person" includes "corporation," "copartnership," "association," as well as an individual; the word "shall" is mandatory and not directory. In addition, the rules of construction listed in § 1-2 of the Code of Ordinances of Kalamazoo shall apply to the extent not inconsistent with the previous sentence.

- A. Terms not defined in this chapter 12 shall have the meanings assigned to them in other portions of the Kalamazoo Code of Ordinances.
- B. Terms not defined in this chapter 12 or elsewhere in the Kalamazoo Code of Ordinances shall have the meaning customarily assigned to them.

**§ 12.2. Use Categories.**

- A. Purpose. This section classifies land uses and activities into use categories on the basis of common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and certain other site factors. The use categories provide a systematic basis for assignment of present and future uses to districts.
- B. Classification Considerations.
  - 1. Uses are assigned to the use category that most closely describes the nature of the principal use, based on the "characteristics" description of each use category. Developments may have more than one principal use, as described below.
  - 2. The following factors are considered to determine what use category the use is in, and whether the activities constitute principal uses or accessory uses:
    - a) The description of the activity(ies) in relationship to the characteristics of each use category.
    - b) The relative amount of site or floor space and equipment devoted to the activity.
    - c) Relative amounts of sales from each activity.
    - d) The customer type for each activity.
    - e) The relative number of employees in each activity.
    - f) Hours of operation.
    - g) Building and site arrangement.
    - h) Vehicles used with the activity.
    - i) The relative number of vehicle trips generated by the activity.
    - j) Signs.

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- k) How the use advertises itself.
- l) Whether the activity would be likely to be found independent of the other activities on the site.

C. **Developments with Multiple Principal Uses.** When all principal uses of a development fall within one use category, then the development is assigned to that use category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable category and is subject to the regulations for that category.

### § 12.3. Definitions and Use Categories.

**ACCESSORY BUILDING** — A subordinate building the use of which is clearly incidental to that of the main building or to use of the land.

**ACCESSORY USE** — A use subordinate to a main permitted use on a lot and used for purposes clearly incidental to the principal use.

**ADJACENT** — In general, the land or property directly adjoining the property in question, or land located across an alley, easement, street or highway from the property in question. When used in connection with § 6.1: Off-Street Parking and Loading, adjacent means the land directly adjoining the building referred to as the principal use, or land located across an alley, easement, street or highway from the building incidental to which such space for vehicle storage or parking is required.

**ADULT FOSTER-CARE GROUP HOME** — See definition of "group living."

**ADULT REGULATED USE** — Any of the following:

- a) **ADULT ARCADE or MINI MOTION-PICTURE THEATER** — Any place to which the public is permitted or invited where coin-operated or slug-operated, or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images displayed are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as defined in this Ordinance).
- b) **ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE** — A commercial establishment that offers for sale or rental for any form of consideration and that has as a substantial or significant portion of its stock-in-trade, books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations, recordings, other audio matter, and novelties or devices that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. The adult bookstore, adult novelty store, or adult video store may have other principal business purposes that do not involve the offering for sale or rental materials that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store, adult video store. Such other business purposes will not serve to exempt such establishment from being categorized as adult bookstore, adult novelty store, adult video store so long as a substantial or significant portion of its business includes the offering for sale or rental for consideration the specified materials that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
- c) **ADULT BOOTH** — A small enclosed or partitioned area inside an adult regulated use that is (1) designed or used for the viewing of books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, video cassettes, slides, or other visual representations, recordings, and novelties or devices that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas by one or more persons, and (2) is accessible to any person, regardless of whether a fee is charged for access. "Adult booth" does not include a foyer through which any person can enter or exit the establishment, or a rest room.

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- d) **ADULT CABARET** — A nightclub, cafe, restaurant, lounge, bar or similar establishment (which may or may not include the service of food or beverages), where male or female impersonators, dancers, entertainers, waiters, waitresses, or employees regularly provide live performances that are distinguished or characterized by their emphasis on specified anatomical areas or specified sexual activities for the observation or entertainment of patrons, guests, and/or members. Adult cabaret also includes an establishment that permits, provides or features topless dancers and/or bottomless dancers, go-go dancers, strippers, topless or bottomless waiters, waitresses and/or employees. § 12.3
- e) **ADULT MOTEL** — A hotel, motel, or similar commercial establishment that (1) offers accommodations to the public for any form of consideration; and (2) provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; and (3) has a sign visible from the public right-of-way that a) advertises the availability of this adult type of photographic reproductions, or b) offers a sleeping room for rent for a period of time that is less than 10 hours, or c) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- f) **ADULT MOTION-PICTURE THEATER** — A commercial establishment where, for any form of consideration, films, motion pictures, videos, slides, or other photographic reproductions are regularly shown in which a substantial portion of the total presentation is devoted to the showing of material that are distinguished or characterized by their emphasis on the depiction, description, or relation to specified sexual activities or specified anatomical areas for observation or entertainment of patrons, guests, and/or members.
- g) **ADULT OUTDOOR MOTION-PICTURE THEATER** — A commercial establishment having an open lot or part of an open lot with appurtenant facilities devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions for any form of consideration to persons in motor vehicles or in outdoor seats, and presenting material distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation or entertainment of patrons, guests, and/or members.
- h) **ADULT MODEL STUDIO** — Any place where a person who displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Such an establishment includes, but is not limited to, the following activities and services: modeling studios, body painting studios, wrestling studios, individual theatrical performance or dance performances, barber shops or hair salons, car washes, and/or convenience stores. An adult model studio shall not include a proprietary school licensed by the State of Michigan or a college, junior college, or university supported entirely or in part by public taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation, or in a structure (1) that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing, and (2) where in order to participate in a class a student must enroll at least three days in advance of the class, and (3) where no more than one nude or seminude model is on the premises at any one time.
- i) **ADULT PHYSICAL CULTURE BUSINESS** — Any commercial establishment, club, or business by whatever name designated, that regularly offers or advertises or is equipped or arranged to provide massages, body rubs, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult physical cultural business may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths.
- j) **ADULT PERSONAL SERVICE BUSINESS** — A commercial business having as a principal activity a person, while nude or partially nude, providing personal services for another person on an individual basis. Such a business includes, but is not limited to, the following activities and services: modeling studios, body painting studios, wrestling studios, individual theatrical performances or dance performances, barber shops

§ 12.3 or hair salons, car washes, convenience stores or other commercial business establishments where food or goods and services are sold, and tattoo parlors where services are being performed by a person who is nude or partially nude. "Nude" or "partially nude" is defined as having attire that reveals specified anatomical areas as defined in this section. § 12.3

k) **ADULT THEATER** — A commercial establishment that is a theater, concert hall, auditorium, or similar commercial establishment, either indoor or outdoor in nature, that, for any form of consideration, regularly features live performances that are distinguished or characterized by their emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by guests, patrons, and/or members. An adult theater does not include a theater, concert hall, auditorium, or similar establishment that, for any fee or consideration, regularly features live performances that are not distinguished or characterized by their emphasis on the depiction or description of specified sexual activities or specified anatomical areas in that any such depiction or description is only incidental to the primary purpose of the performance.

**AGRICULTURAL SALES** — On-site sale of feed, grain, fertilizers, pesticides and similar goods. Typical uses include nurseries, hay, feed and grain stores.

**AGRICULTURAL SERVICE** — Provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include crop dusting and tree service firms.

**AGRICULTURE** — Farms and general farming, including horticulture, floriculture, dairying, livestock, and poultry raising, farm forestry, and other similar enterprises, or uses, but no farms shall be operated as piggeries, or chicken brooderies or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals, except for consumption by persons residing on the premises.

**AGRICULTURE, CROP.** — Activities that primarily involve raising or producing field crops or other plants. Examples include farming, truck gardening, forestry, tree farming, and wholesale plant nurseries.

**ANCILLARY.** — When used in conjunction with § 4.2W: Telecommunications Facilities, the buildings, cabinets, vaults, closures and equipment required for operation of telecommunication systems including but not limited to repeaters, equipment housing, and ventilation and other mechanical equipment.

**ANEMOMETER** — Temporary wind speed indicator equipment utilized for the purpose of analyzing the potential for utilizing a wind energy system at a given site. Such devices monitor wind speed and flow direction characteristics over a period of time for a particular location. **[Added 9-20-2010 by Ord. No. 1872]**

**ANIMAL SERVICE.** — The following are animal services use types:

- a) **KENNELS** — Kennel services for dogs, cats, and small animals, including overnight care. Typical uses include boarding kennels and dog training centers.
- b) **SALES AND GROOMING** — Sales, grooming and day time care of dogs, cats, and similar small animals. Typical uses include pet stores, dog bathing and clipping salons and pet grooming shops. No overnight boarding is allowed.
- c) **VETERINARY CLINIC** — A building, or any portion of a building, used for the treatment of house pets as outpatients only and not having exterior or interior kennels and overnight lodgings appurtenant to or as part of the use. Overnight boarding of animals is only permitted when necessary for unanticipated complications from treatment. Typical uses include veterinary offices, pet clinics.
- d) **VETERINARY HOSPITAL** — A building, or any portion of a building, used for the treatment of house pets, and that may have exterior or interior kennels and overnight lodgings appurtenant to or as part of the use. Typical uses include veterinary offices and animal hospitals.

**ANTENNA** — An electrical conductor or group of electrical conductors that transmit or receive radio waves, excluding amateur radio antennas.

**ANTENNA SUPPORT STRUCTURE** — Any building or other structure other than a transmission tower that can be used for location of telecommunications facilities.



§ 12.3 APPLICATION — Application means the process by which the owner of a parcel of land within the City submits a request for any type of development review or approval identified in Chapter 8 of this Ordinance. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the City concerning such a request. § 12.3

ASSISTED LIVING FACILITY — See definition of "group living."

ATTACHED DWELLING — See definition of "household living."

ATTACHMENT — When used in conjunction with § 4.2.W: Telecommunications Facilities, an antenna or other piece of related equipment affixed to a transmission tower, building, light or utility pole, or water tower.

AWNING — A retractable or fixed shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework.

BED — When used in for computing required amounts of parking or loading pursuant to § 6.1: Off-Street Parking and Loading, such beds as are occupied by the patients or guests of the hospital or building in question; provided, however, that bassinets and incubators shall not be counted as beds.

BED-AND-BREAKFAST — See definition of "lodging."

BREWERY — A large-scale brewer that produces beer for sale on premises, as well as for off-site sales, as licensed by the State of Michigan.[Added 8-20-2012 by Ord. No. 1900]

BREW PUB — See definition of "eating and drinking establishments."

BUILDING — Any structure used or intended for supporting or sheltering any use or occupancy. This shall include tents or vehicles situated on private property and used for purposes of a building.

BUILDING MAINTENANCE SERVICE — Provision of maintenance and custodial services to commercial and industrial establishments. Typical uses include janitorial, landscape maintenance and window cleaning services. Also includes exterminator services for residential, commercial or industrial applications.

BUILDING SETBACK LINE — A line indicating the minimum distance required to be maintained between the front property line and the nearest supporting member of any structure on the lot.

BULK OF A BUILDING — The gross cubical contents of a building measured to the outside surfaces but excluding uncovered porches, fire escapes, steps, and terraces and enclosed portions of the building that project beyond the main surfaces less than three feet and excluding basement spaces not meeting the definition of a story.

BUSINESS SUPPORT SERVICE — Provision of clerical, employment, protective, or minor processing services to firms rather than individuals. Storage of goods other than samples is prohibited. Typical uses include secretarial services, telephone answering services and blueprint services. Also includes business or trade schools that do not involve any outdoor storage or manufacturing processes. Business or trades schools that do involve outdoor storage or manufacturing processes are classified as "Limited Manufacturing and Production."

CANOPY — A permanent, roof-like shelter that extends from part or all of a building face and is constructed of nonrigid material, except for the supporting framework.

CAR WASH — See definition of "vehicle and equipment sales and service."

CEMETERIES AND MAUSOLEUMS — See definition of "funeral and interment service."

CITY COMMISSION — The City Commission of the City of Kalamazoo.

CITY-OWNED FACILITIES — Any structures, buildings or land owned by the City of Kalamazoo or its agents.

CLINICS — An establishment housing facilities for medical, dental or psychiatric diagnosis and treatment, exclusive of major surgical procedures, for sick, ailing and injured persons who are not kept overnight on the premises.

CLUB — A nonprofit association of persons who are bona fide members, paying regular dues and are organized for some common purpose, but not a group organized solely or primarily to render a service customarily carried on

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as a commercial enterprise.

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CLUSTER HOUSING DEVELOPMENT — See definition of "household living."

COLLOCATED FACILITY — When used in conjunction with § 4.2W: Telecommunications Facilities, a wireless telecommunication facility that is attached to an existing pole, tower, or other structure including, but not limited to, a structure that can accommodate the future installation of two or more antenna systems.

COLLOCATION — When used in conjunction with § 4.2W: Telecommunications Facilities, placement of an antenna on an existing transmission tower, building, light or utility pole or water tower where the antenna and all supports are located on the existing structure.

COLLEGE or UNIVERSITY — An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.

COMMERCIAL ESTABLISHMENT — Any business, location, or place that conducts or allows to be conducted on its premises any activity for commercial gain.

COMMUNICATIONS SERVICE — Broadcasting and other information relay services accomplished through use of electronic and telephonic mechanisms. Excludes services classified as "major utilities and services" and "minor utilities." Typical uses include recording studios, television and radio studios, and telecommunication service centers.

COMMUNITY RECREATION — Recreational, social, or multi-purpose uses typically associated with parks, play fields, golf courses, or community recreation buildings.

- a) OPEN SPACE/NATURE PRESERVE — Any parcel or area of land or water in which human activities are very limited and where the natural environment is protected from human changes and may be reserved for public or private use or enjoyment.
- b) PARKS/RECREATION FACILITY — A tract of land or a place designed and equipped for the conduct of sports and leisure-time activities available to the general public for recreational purposes.

COMMUNITY SERVICE CENTER — A nonprofit facility used for recreational, social, educational, cultural, and advisory services/activities, including, for example, services to children, tax assistance, housing assistance, computer tutoring, or educational classes. Generally, they provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community services or facilities that have membership provisions are open to the general public to join at any time. This use does not include any facility that meets the definition of a school, religious assembly, lodge, fraternal, or civic assembly.

CONDOMINIUM — A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

CONSTRUCTION SALES AND SERVICE — Construction activities and incidental storage on lots other than construction sites. Also includes landscape contractors and landscape maintenance businesses and the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures, and hardware, but excludes those uses classified as "automotive" and/or "heavy equipment" use types. Typical uses include building materials stores, tool and equipment rental or sales building contracting/construction offices and landscape maintenance/contractor offices.

CONVENIENCE STORE — See definition of "food and beverage retail sales."

CREMATING — See definition of "funeral and interment service."

CULTURAL EXHIBITS, LIBRARIES AND MUSEUMS — Museum-like preservation and exhibition of objects in one or more of the arts and sciences, gallery exhibition of works of art, or library collection of books, manuscripts, etc., for study and reading.

DAY CARE — Uses providing care, protection and supervision for children or adults on a regular basis away from

their primary residence for less than 24 hours per day.

- a) DAY CARE HOME, FAMILY — A facility for child care in the permanent residence of the provider for the purpose of providing day care and training for a child or children away from their primary residence for less than 24 hours per day. Children being cared for in a day care home shall be under the age of 12 years unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The facility shall provide care, protection, and supervision to no more than six children at one time, plus any children related to an adult member of the provider's family by blood, marriage, or adoption. Care of children shall be provided for periods of less than 24 hours, and for more than four weeks in a calendar. Operation of a "day care home" is considered, for purposes of this Ordinance, to be an accessory use to a principal residential use. The operator of the facility must live in the facility as his or her primary residence.
- b) DAY CARE HOME, GROUP — A licensed day-care center in a private home as an accessory use in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year. Notwithstanding its status as an accessory use, a group day care home requires a permit. The operator of the facility must live in the facility as his or her primary residence.
- c) DAY-CARE CENTER (COMMERCIAL OR INSTITUTIONAL) — (a) a facility, whether nonprofit or for-profit, that provides care, protection, and supervision for eight or more adults on a regular basis away from their primary residence for less than 24 hours per day; or (b) an institutional facility that is maintained for the whole or part of a day for the care of one or more children under the age of 18 years who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated educational purposes, and for periods of less than 24 hours, and for periods of not more than two consecutive weeks, where the parents, relatives, or legal guardians of the children are not immediately available. The term includes, but is not limited to, facilities commonly known as day-care centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, centers for mentally retarded children and those facilities that give less than 24 hour per day care for dependent and neglected children. Day-care centers are also those facilities for children under the age of six years with stated educational purposes that are operated in conjunction with a public, private, or parochial college or a private or parochial school, except that the term shall not apply to a kindergarten maintained in connection with a public, private or parochial elementary school system of at least six grades.

DAY-CARE CENTER (COMMERCIAL OR INSTITUTIONAL) — See definition of "day care."

DAY CARE HOME, FAMILY — See definition of "day care."

DAY CARE HOME, GROUP — See definition of "day care."

DECK — An unroofed platform, either freestanding or attached to a building, that is supported by pillars or posts.

DECOMMISSION PLAN — A plan detailing the process and time frame for terminating the operation of and completely removing a wind energy system, including all related structures, equipment, wiring, foundations, and access roads. **[Added 9-20-2010 by Ord. No. 1872]**

DENSITY — The relationship of the number of dwelling units to the gross area of the lot or tract upon which a residential structure or structures are to be located or erected.

DETACHED DWELLING — See definition of "household living."

DETENTION BASIN — A facility for the temporary storage of stormwater runoff.

DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON — For the purpose of interpreting, administering and enforcing the provisions of § 4.2B: Adult Regulated Uses, the dominant or principal theme of the object so described. For example, "films that are distinguished or characterized by an emphasis upon the

§ 12.3 exhibition or description of specified sexually activities or specified anatomical areas," the films so described are those whose dominant or principal character are the exhibition or description of "specified anatomical areas" or "specified sexual activities." § 12.3

DORMITORY — See definition of "group living."

DRIVEWAY — An access roadway leading from an authorized drive approach to a garage, carport or required parking space, including turnaround areas, and including circular driveways from an authorized drive approach to another authorized drive approach.

DROP-IN CENTER — A facility operated and supervised by a profit or nonprofit organization, agency, association, group or company or individual where people with special needs are informally invited to gather.

DUPLEX — See definition of "household living."

DWELLING — A building, or portion of a building, designed and used exclusively for residential purposes.

DWELLING UNIT — Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities that are used or intended for use for sleeping, eating and living purposes.

EATING AND DRINKING ESTABLISHMENT — Sale of prepared food and beverages for on and off premises consumption. The following are eating and drinking establishment use types:

- a) BREWPUB — A facility licensed as a brewpub by the Michigan Liquor Control Commission that manufactures and sells beer only for consumption on the premises, as well as food for takeout or consumption on the premises. **[Amended 8-20-2012 by Ord. No. 1900]**
- b) FAST ORDER FOOD, WITHOUT DRIVE-THROUGH — An establishment whose primary business is the sale of food: a) primarily intended for immediate consumption; b) available within a short waiting time; and c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold. Does not include drive-through fast order food establishments.
- c) FAST ORDER FOOD, DRIVE-THROUGH — Sale of food directly to patrons in motor vehicles or to patrons that intend to use the motor vehicle as an eating area. Typically, this use is either dependent on a long driveway that provides adequate room for vehicle stacking at a drive-up service window or on a parking area near a walk-up service window.
- d) SIT-DOWN RESTAURANT — — Sale of food prepared and served to be generally consumed on the premises. Typically, clientele does not turn over rapidly. No more than 1/3 of the customer floor area on any floor level may consist of bar facilities, including alcoholic drink preparation/storage/serving areas, bar stools or other adjacent sitting areas for consuming drinks, or adjacent standing areas. No cover charge or other charge for admission is required, and the facility generally closes by midnight each day. **[Amended 1-3-2012 by Ord. No. 1888]**
- e) TAVERN OR LOUNGE — — An establishment in which alcoholic beverages are served, primarily by the drink, and where food or packaged liquors may also be served or sold. The service of alcoholic beverages predominates over the service of food. A cover charge or admission charge is often included but not exclusively, and the facility is generally open until 2:00 a.m. Entertainment, recorded or otherwise, is a common feature. **[Amended 1-3-2012 by Ord. No. 1888]**
- f) TEAROOM/CAFE — An eating and drinking establishment that specializes in serving tea and/or coffee, and where packaged tea, coffee, and food may also be served or sold for on-premises or off-premises consumption. This use shall not include any establishment that meets the definition of a sit-down restaurant, tavern, lounge, or fast order food establishment.

EFFECTIVE DATE — The date on which this Zoning Ordinance became effective, as stated in § 1.3: Effective Date.

EMPLOYEE — For the purpose of interpreting, administering and enforcing the provisions of § 4.2B: Adult

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Regulated Uses, a person who performs any service for any consideration on the premises of an adult regulated use on a full-time, part-time, or contract basis, whether or not the person is called an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said adult regulated use. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises. When used in other contexts, a person who performs services for an establishment for at least 30 hours per week, on average, whether or not the person is called an employee, independent contractor, agent, or otherwise.

EMPLOYMENT AGENCY PRIMARILY FOR DAY WORKERS — Any person or entity engaged in the business of providing day workers (laborers) to third-party employers and that charges the third-party employer for the service of providing day workers for employment offered by the employer. This includes a labor broker or labor pool.

ENCROACHMENT — Any object including but not limited to banners, signs, street furniture, waste bins, newspaper boxes, works of art, either permanent or temporarily placed in or above the public right-of-way on sidewalk, alleys, or streets.

ENGINEER — Any engineer licensed by, or authorized to perform work in, the State of Michigan.

ENTERTAINMENT AND SPORTS, SPECTATOR — Provision of cultural, entertainment, athletic, and other events to spectators. Typical uses include cinemas, live theaters, sports arenas and stadiums.

a) LIMITED — Those uses conducted within an enclosed building with a capacity of 199 or fewer people. Typical uses include small theaters and meeting halls.

b) GENERAL — Those uses, whether indoor or outdoor with a capacity of 300 or more people.

ESTABLISHMENT — For the purpose of interpreting administering and enforcing the provisions of § 4.2B: Adult Regulated Uses, the site or premises on which an adult regulated use is located, including the interior of the establishment or portions of the interior, upon which certain activities or operations are being conducted for commercial gain.

EXPLOSIVE STORAGE — Storage of any quantity of explosives. Typical uses include storage in the course of manufacturing, selling, or transporting explosives or in the course of blasting operations.

FAMILY —

a) An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit, or

b) A collective number of individuals domiciled together whose relationship is of a continuing, nontransient domestic character and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, federation, organization, or group of individuals whose domestic relationship is of a transitory or seasonal nature, nor shall it include residents of a state-licensed residential facility, except to the extent permitted by law.

FAST ORDER FOOD — See definition of "eating and drinking establishments."

FINANCIAL, INSURANCE AND REAL ESTATE SERVICES — Financial, insurance, real estate, or securities brokerage services. Typical uses include banks, insurance agencies and real estate firms.

FLEET STORAGE — See definition of "vehicle and equipment sales and service."

FLICKER EFFECT — Alternating changes in light intensity caused by the sun shining through the moving blades of a wind energy system that casts shadows on adjacent properties and objects, such as the windows of a building. **[Added 9-20-2010 by Ord. No. 1872]**

FOOD AND BEVERAGE RETAIL SALES — Retail sale of food and beverages for home consumption. Typical uses include groceries and delicatessens.

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- a) **CONVENIENCE STORE** — A retail establishment offering for sale food and beverage for off-site consumption, household items, newspapers and magazines, and other small convenience items typically found in establishments with long or late hours of operation. A convenience store has a gross floor area no larger than 5,000 square feet. This definition excludes delicatessens or other specialty food stores. A convenience store does not offer gasoline products for sale; if gasoline products are offered for sale, the use shall be classified as gasoline and fuel sales. § 12.3
- b) **PACKAGE LIQUOR STORE** — A retail sales establishment licensed by the Michigan Liquor Control Commission selling packaged alcoholic liquors (including beer, wine, and spirituous liquors) for consumption off-site. This use does not include establishments meeting the definition of a sit-down restaurant, tavern, lounge, or fast order food establishment.
- c) **FOOD SALES (GROCERY)** — A retail sales establishment selling food and beverages for off-site preparation and consumption that maintain a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood and/or specialize in the sale of one type of food item. This use may also include sales of personal convenience and small household goods. Establishments at which 20% or more of the transactions are sales of prepared food for on-site consumption shall be classified as eating and drinking establishments.

**FOSTER FAMILY GROUP HOME** — See definition of "group living."

**FOSTER FAMILY HOME** — See definition of "group living."

**FRATERNITY OR SORORITY** — See definition of "group living."

**FREESTANDING FACILITY** — When used in conjunction with § 4.2W: Telecommunications Facilities, a new tower, monopole, or other unattached structure erected to support wireless communication antennas and connecting appurtenances.

**FUNERAL AND INTERMENT SERVICE** — Provision of services involving the care, preparation or disposition of the dead. The following are funeral and interment services use types:

- a) **CEMETERIES and MAUSOLEUMS** — A parcel of land designated to be used for the burial of human remains or storage of cremated remains of the dead., include columbaria, crematories, mausoleums and mortuaries, if operated in connection with, and within the boundaries of such cemetery.
- b) **CREMATING** — Crematory services involving the purification and reduction of the bodies by fire. Typical uses include crematories and crematoriums.
- c) **FUNERAL HOME** — Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries.

**GASOLINE AND FUEL SALES** — Retail sale, from the premises, of petroleum products with incidental sale of tires, batteries, and replacement items, lubricating services. Typical uses include automobile service stations, filling stations and truck stops.

- a) **WITHOUT VEHICLE SERVICE OR REPAIR** — An establishment offering only sales of items listed above, and not offering or providing any of the types of service listed in the definition of "gasoline and fuel sales with minor vehicle service or repair below" or any other form of vehicle repair service.
- b) **WITH MINOR VEHICLE SERVICE OR REPAIR** — An establishment offering sales of the items listed above that may also provide passenger vehicle minor repair or maintenance services within completely enclosed buildings. Minor motor vehicle services include quick-lube businesses, brake and muffler shops, battery and tire service shops and other vehicle maintenance establishments that do not typically render vehicles inoperable overnight. Minor vehicle service does not include body or fender bumping or painting shops, major motor repairing businesses, transmission and clutch repairs, or other types of vehicle repair that typically render vehicles inoperable overnight.

**GOVERNMENT OFFICE** — Any department, commission, independent agency, or instrumentality of the United

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States, of a state, county, incorporated or unincorporated municipality, township, authority, district, or other governmental unit. § 12.3

**GREENHOUSE** — An establishment where flowers, shrubs, vegetables, trees, and other horticultural and floricultural products are grown both in open and enclosed buildings.

**GROSS FLOOR AREA** — The sum of the gross horizontal floor areas including: Areas occupied by fixtures and equipment for display or sale of merchandise, and mezzanines and other partial floor areas. Such area shall be measured from the exterior faces of exterior walls or from the center line of walls separating two buildings or structures, excluding stairwells at each floor, elevator shafts at each floor, floors or parts of floors devoted exclusively to vehicular parking or loading, and all floors below the first or ground floor, except when used for or intended to be used for service by customers, patrons, clients, patients, or tenants.

**GROUP LIVING** — Residential occupancy of a dwelling unit by other than a household and providing communal kitchen/dining facilities, for a period that includes overnight lodging. Typical uses include occupancy of fraternity and sorority houses, nursing/retirement homes, boarding houses and cooperatives. This use type does not include other group care facilities more specifically defined in this Ordinance.

- a) **ADULT FOSTER-CARE FAMILY HOME (SIX OR FEWER RESIDENTS)** — Residence for the adult population in a private home with a design capacity of six or fewer residents (not including staff) that provides rooms, meals, personal care, and supervision of self-administered medication for five or more days a week, and for periods of two or more weeks. They may provide other services, such as recreational activities, financial services, and transportation. The adult foster care family home licensee must be a member of the household and an occupant of the home.
- b) **ADULT FOSTER-CARE SMALL GROUP HOME (SIX OR FEWER RESIDENTS)** — Residence for the adult population with a design capacity of six or fewer residents (not including staff) that provides rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation. The facility need not be located in a private home, and the licensee and caregivers need not live at the facility.
- c) **ADULT FOSTER-CARE MEDIUM/LARGE GROUP HOME (SEVEN TO 20 RESIDENTS)** — Residence for the adult population with a design capacity of more of seven to 20 residents (not including staff) that provides rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation. The facility need not be located in a private home, and the licensee and caregivers need not live at the facility.
- d) **ASSISTED LIVING FACILITY** — Residences for the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation. Assisted living facilities do not include the provision of health services by trained medical professionals on the premises.
- e) **DORMITORY** — A building or portion of a building used by and financially supported by educational, medical, religious or other public and private institutions of higher learning used for housing students, but not including hotels, motels or rooming houses (also residence halls).
- f) **FOSTER FAMILY GROUP HOME (FIVE TO SIX CHILDREN)** — A private home in which five or six minor children, who are not related to an adult member of the household by blood or marriage and who are not placed in the household pursuant to the Michigan Adoption Code, Chapter X of the Probate Code of 1939, 1939 PA 288, MCLA § 710.21 to 710.70, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- g) **FOSTER FAMILY HOME (FOUR OR FEWER CHILDREN)** — A private home in which one but not more than four minor children, who are not related to an adult member of the household by blood or marriage and who are not placed in the household pursuant to the Michigan Adoption Code, Chapter X of the Probate Code of 1939, 1939 PA 288, MCLA § 710.21 to 710.70, are given care and supervision for 24 hours a day, for four

§ 12.3 or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian. § 12.3

- h) **FRATERNITY or SORORITY** — A dwelling occupied by members of a fraternity or sorority that is recognized by a local institution or higher learning.
- i) **NURSING/CONVALESCENT HOME** — A state licensed medical establishment providing accommodation and care for aged or infirm persons, but not including a facility meeting the definition of a "hospital."
- j) **REHABILITATION CENTER (LIVE-IN FACILITIES WITH UP TO SIX BEDS)** — A facility that provides short-term, primarily in patient care, treatment, and/or rehabilitation services for up to six persons recovering from mental or physical illness or injury who do not require continued hospitalization but do require medical or psychiatric treatment. This use does not include facilities meeting the definition of a "hospital" or "nursing/convalescent home." A rehabilitation center may include a nursing/convalescent home that provides all of the following services: (1) physical therapy services, (2) occupational therapy services, and (3) speech therapy services.
- k) **ROOMING/BOARDINGHOUSE** — Any dwelling or that part of any dwelling or dwelling unit containing one or more rooming units in which each rooming unit is let for sleeping purposes by the owner or operator to more than four persons who are not related by blood, marriage or adoption to the owner or operator. A "rooming unit" means any room or group of rooms forming a single, habitable unit or intended to be used for living and sleeping but not for cooking or eating purposes.
- l) **TRANSITIONAL RESIDENCES** — A residential facility operated by a government agency or private, nonprofit organization that provides temporary accommodations and on-site management for homeless persons and/or homeless families or other persons requiring interim housing arrangements.

**GUYED TOWER** — See definition of "transmission tower."

**HEAVY EQUIPMENT REPAIR** — See definition of "vehicle and equipment repair."

**HISTORIC RESOURCES** — Historic resources are all those currently designated either as districts or individually, locally or to the National Register of Historic Places; are included in any of the previous historic resources surveys carried out by the City, or are considered eligible for any of these designations or surveys.

**HOME OCCUPATION** — A business, profession, occupation, or trade that is conducted for gain as an accessory use within a dwelling unit by a resident of the dwelling unit. Home occupations must comply with those standards and conditions stated in § 4.3G: Home Occupations.

**HOTEL** — See definition of "lodging."

**HOSPITAL** — A state licensed medical establishment whose facilities provide in-patient accommodations; a wide range of medical and surgical care; and other in-patient health services for sick, ailing or injured persons; and including such related facilities as laboratories, outpatient departments, training facilities, central services and staff offices and residences that are integral with and accessory to the principal use of the establishment.

**HOUSEHOLD LIVING** — A use category including mostly household dwelling, and including residential occupancy of a dwelling unit by a household with tenancy arranged on a month-to-month or longer basis.

- a) **ATTACHED DWELLING** — A dwelling containing no less than three nor more than eight dwelling units arranged side by side separated from each other by vertical party walls. No portion of a dwelling unit shall be constructed over or under any portion of an adjoining dwelling unit. No more than one dwelling unit may be served by a single stairway or by a single exterior door. An attached house may include condominium units.
- b) **CLUSTER HOUSING DEVELOPMENT** — A residential development in which not all of the lots comply with minimum lot area and width standards, but in which the development as a whole conforms to the requirements of § 4.2G: Cluster Housing Developments. A cluster housing development may include condominium units.



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- c) **DETACHED DWELLING** — A dwelling containing one dwelling unit, and not attached to any other structure containing a dwelling unit. A detached house may also include a mobile home, modular home, manufactured home, or a condominium that meets all requirements of this Ordinance, including without limitation those use standards for a single-family dwelling contained in § 4.2L: Detached Dwelling. § 12.3
- d) **DUPLEX** — A dwelling containing two dwelling units, attached side-to-side or with one dwelling unit located above the second dwelling unit. A duplex may include condominium units.
- e) **MULTI-UNIT DWELLING** — A dwelling containing three or more dwelling units. A multi-unit dwelling may include condominium units.
- f) **MOBILE HOME PARK** — A parcel or tract of land under the control of a person where three or more mobile homes are located on a continual, nonrecreational basis and that is offered to the public for that purpose regardless of whether a charge is made for use or occupancy of a mobile home or any portion of the parcel or tract, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

**INDOOR RETAIL SALES AND SERVICE** — See definition of "retail sales and service."

**INDUSTRIAL, GENERAL** — Production, processing, assembling, packaging, or treatment of food and nonfood products; or manufacturing and/or assembly of electronic instruments and equipment and electrical devices. General industrial uses do not have nuisance conditions that are detectable from the boundaries of the subject property. Nuisance conditions can result from any of the following:

- a) Continuous, frequent, or repetitive noises or vibrations;
- b) Noxious or toxic fumes, odors, or emissions;
- c) Electrical disturbances; or
- d) Night illumination into residential areas.

Notwithstanding the foregoing, the following types of impacts are consistent with a general industrial classification: noise and vibrations from temporary construction; noise from vehicles or trains entering or leaving the site; noise and vibrations occurring less than 15 minutes per day; an odor detected for less than 15 minutes per day; noise detectable only as part of a composite of sounds from various off-site sources.

**INDUSTRIAL, INTENSIVE** — Manufacturing, processing, or assembling of materials in a manner that would create any of the commonly recognized nuisance conditions or characteristics described above in the "general industrial" use type classification.

**KENNEL** — See definition of "animal service."

**LARGE COLLECTION FACILITIES** — See definition of "recycling facility."

**LATTICE TOWER** — See definition of "transmission tower."

**LAUNDRY SERVICE** — Laundering, dry cleaning, or dyeing services other than those classified as "personal services, general". Typical uses include laundry agencies, diaper services and linen supply services.

**LIGHT EQUIPMENT REPAIR** — See definition of "vehicle and equipment sales and service."

**LODGE, FRATERNAL AND CIVIC ASSEMBLY** — Meetings and activities primarily conducted for members of such groups. Excludes group living, group care and lodging use types. Typical uses include meeting places for civic clubs, lodges, or fraternal or veteran organizations.

**LODGING** — Provision of lodging services on a temporary basis with incidental food, drink, and other sales and services intended for the convenience of guests. The following are transient habitation use types:

- a) **BED-AND-BREAKFAST** — An establishment located within a detached house that is the principal residence

§ 12.3 of the operator, where short-term lodging is offered for compensation and that includes the service of one or more meals to guests. § 12.3

- b) HOTEL — An establishment that does not meet the definition of bed-and-breakfast where (i) short-term lodging is offered for compensation; and (ii) lodging units are accessed from interior hallways. Hotel structures are generally more than two stories in height.
- c) MOTEL — An establishment that does not meet the definition of bed-and-breakfast where (i) short-term lodging is offered for compensation; and (ii) lodging units are accessed by exterior doors opening directly on exterior parking areas or passageways. Motel structures generally do not exceed two stories in height.

LOT — A parcel of land, utilized in compliance with all the provisions of the Zoning Ordinance. A lot may or may not be a lot of record. A lot must have at least 20 feet of frontage on a public street or on an unobstructed and permanent easement to a public street. **[Amended 3-19-2007 by Ord. No. 1822]**

LOT, DOUBLE FRONTAGE — A lot that fronts on two parallel streets or that fronts on two streets that do not intersect at the boundaries of the lot (as distinguished from a corner lot).

LOT OF RECORD — A parcel of land, the dimensions of which are shown on a recorded plat on file with the Kalamazoo County Register of Deeds.

MANUFACTURED HOME — A single-family detached housing unit that is built to the National Manufactured Housing Construction and Safety Standards of 1974 (42 U.S.C. § 5401), which became effective June 15, 1976 (i.e., HUD approved). The structure, transportable in one or more sections, that, in the traveling mode, is eight body feet or more in width or 30 body feet or more in length, or, when erected on site is 360 or more square feet, and that is built on a permanent chassis and designed to be used for human occupancy with or without a permanent foundation and includes the plumbing, heating and/or air conditioning, and electrical systems contained in such structure.

MANUFACTURING AND PRODUCTION, LIMITED — Establishments that do not involve outside storage of materials, do not require federal air quality discharge permits, are compatible with nearby residential uses because there are few or no offensive external effects, and are primarily engaged in one of the following. **[Amended 8-20-2012 by Ord. No. 1900]**

- a) On-site production of goods by hand manufacturing involving use of hand tools or light mechanical equipment. Products may be finished or semifinished and are generally made for the wholesale market, for transfer to other plants, for display or sale on site, or to order for customers or firms. Typical uses include instruction studios, ceramic studios, woodworking and cabinet shops, custom jewelry manufacturing, and similar types of arts and crafts or small-scale manufacturing; or
- b) Manufacturing or assembling of electronic components, medical and dental supplies, computers, or other manufacturing establishments with similar characteristics; or
- c) Craft food and beverage production, generally with a retail sales component on site. Typical uses include bakeries, microbreweries, wineries, or distilleries, cottage food operations, or packaged foods from local producers.

MANUFACTURING AND PRODUCTION, TECHNOLOGICAL — Production, processing, assembling, or packaging of products that rely upon research and technological innovation. Typical uses include manufacturing research instruments, electronic products, and surgical and medical instruments. This use type does not include uses that require federal air quality discharge permits.

MARIHUANA or MARIJUANA — That term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq. **[Added 4-2-2018 by Ord. No. 1957]**

MARIHUANA FACILITY — An enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Act, MCL 333.27101 et seq., including a marihuana grower, marihuana

§ 12.3 processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. § 12.3  
The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan  
Marihuana Act, MCL 333.26421 et seq. **[Added 4-2-2018 by Ord. No. 1957]**

- a) GROWER — A licensee that is a commercial entity located in this state that cultivates, dries, trims or cures and packages marijuana for sale to a processor or provisioning center.
  - 1) Class A: A licensed grower who is authorized to grow not more than 500 marihuana plants.
  - 2) Class B: A licensed grower who is authorized to grow not more than 1,000 marihuana plants.
  - 3) Class C: A licensed grower who is authorized to grow not more than 1,500 marihuana plants.
- b) PROCESSOR — A licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center
- c) PROVISIONING CENTER — A licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning Center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
- d) SAFETY COMPLIANCE FACILITY — A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.
- e) SECURE TRANSPORTER — A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
- f) MEDICAL CANNABIS DISPENSARY: A provisioning center operated and whose license to operate is held solely by one or more registered qualifying patients and/or registered primary caregivers operating at a fixed location.

MARQUEE — A permanent, roof-like shelter that extends from part or all of a building face and is constructed entirely of noncombustible materials.

MEDICAL SERVICE — Personal health services including prevention, diagnosis and treatment, rehabilitation services provided by physicians, dentists, nurses, and other health personnel and medical testing and analysis services. Typical uses include medical offices, clinics, dental laboratories, and health maintenance organizations. Excludes use types more specifically classified, such as hospitals.

MICROBREWERY — A small-scale brewer that produces beer for sale on the premises, as well as for off-site sales, as licensed by the State of Michigan. **[Added 8-20-2012 by Ord. No. 1900]**

MINI-WAREHOUSES — See definition of "wholesale, storage, and distribution."

MINING — Mining or extraction of mineral or aggregate resources from the ground for off-site use. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil and gas drilling.

MIXED USE — Whenever the expression "mixed use" is used, it shall refer to the use of land for storage or parking space accessible to two or more different principal uses on adjacent lands.

MOBILE HOME — A mobile home is a structure, transportable in one or more sections, that is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

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MOBILE HOME PARK — See definition of "household living."

MODULAR HOME — A dwelling unit that consists of building materials commonly used in on-site construction but that is pre-constructed off site into units and transported to the site on a removable undercarriage or flat bed and assembled for permanent location on the lot.

MONOPOLE — See definition of "transmission tower."

MOTEL — See definition of "lodging."

MULTI-UNIT DWELLING — See definition of "household living."

MURAL — A design or representation that is either (i) painted, (ii) drawn, or (iii) produced off-site and affixed in a structurally sound and workmanlike manner on the exterior wall of a building or structure that does not direct attention to a product, service, place, activity, person, institution, business or solicitation. **[Amended 6-29-2009 by Ord. No. 1854]**

NUDITY or STATE OF NUDITY — The knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female individual's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this chapter, does not include a woman's breastfeeding of a baby regardless of whether the nipple or areola is exposed during or incidental to the feeding.

NURSING/CONVALESCENT HOME — See definition of "group living."

OFFICE, ADMINISTRATIVE AND PROFESSIONAL — Professional, governmental, executive, management or administrative offices of private organizations or government agencies. Typical uses include government offices, administrative offices, legal offices and architectural firms.

OPACITY — The percentage of view blocked by a typical one foot square section of a fence, barrier, or buffer material. An "opaque" fence or wall is one with opacity of greater than 90%.

OPEN SPACE/NATURE PRESERVE — See definition of "community recreation."

OUTDOOR RETAIL SALES AND SERVICE — See definition of "retail sales and service."

OWNER — The person having the right of legal title or beneficial interest in or a contractual right to purchase a parcel of land. For the purpose of providing notices required by this Ordinance, the owner is the person who last paid taxes on any parcel as identified by property tax records. For purposes of making applications for approvals under this Ordinance, or responding to notices or enforcement actions under this Ordinance, the owner may also include a person or entity authorized in writing to appear on behalf of the person having the right of legal title or beneficial interest in or a contractual right to purchase a parcel of land. When used in conjunction with § 4.2W: Telecommunications Facilities, a person or entity with free title or a long-term (exceeding 10 years) leasehold to any parcel of land within the City who desires to develop, construct, build, modify, or erect a transmission tower upon such parcel of land.

PACKAGE LIQUOR STORE — See definition of "food and beverage retail sales."

PARKING, COMMERCIAL — Facilities that provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking use.

PARKING SPACE — A surfaced area, enclosed in the main building or in an accessory building or unenclosed, that is designated and used for off-street parking of a motor vehicle.

PARKS/RECREATION FACILITY — See definition of "community recreation."

PERSON — Any natural person, firm, partnership, association, corporation, company, trust estate, or other legal entity, private or public, whether for profit or not for profit.

PERSONAL CONVENIENCE SERVICE — Provision of small personal items or consumer-oriented, personal services that do not include services from a licensed health or mental health care professional. These include various general retail sales and personal services of a small, neighborhood-scale. Typical uses include

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neighborhood grocery stores, drugstores, laundromats/dry cleaners and barbershops.

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**PERSONAL IMPROVEMENT SERVICE** — Informational, instructional, personal improvement, and similar services. Excludes services classified as "spectator sports and entertainment," "participant sports and recreation" or "transient habitation." Typical uses include photography studios, driving schools and weight reducing salons.

**PLANNING COMMISSION** — The Planning Commission of the City of Kalamazoo.

**POSTAL SERVICE** — Mailing services and processing as traditionally operated or leased by postal and parcel service companies.

**PRIMARY FACADE** — The exterior face of a building that is the architectural and functional front of a building, and is oriented toward the primary street. A building has only one primary facade.

**PRINCIPAL USE** — The predominant use or uses to which a lot or structure is devoted.

**PROCESSING CENTER** — See definition of "recycling facility."

**PROVIDER** — When used in conjunction with § 4.2W: Telecommunications Facilities, a person in the business of designing and using telecommunication facilities including cellular radiotelephones, personal communications services, enhanced/specialized mobile radios, and commercial paging services.

**PUBLIC LIBRARY** — A library established and operated by an accredited college or university, community college district, the City, a public school district, or other local unit of government or authority, or combination of local units of governments and authorities, and whose services are available for use by the public. **[Added 4-2-2018 by Ord. No. 1957]**

**PUBLIC SAFETY SUBSTATION** — A facility that provides protection to a district or entity according to fire, life, and safety code sections, together with the incidental storage and maintenance of necessary vehicles, but not including a facility in which only administrative services are provided (i.e. headquarters offices). Typical uses include fire stations, police stations and ambulance services.

**PUBLIC UTILITY** — Any person, firm, or corporation, municipal department, board or commission duly authorized to provide public utilities under federal, state, or municipal regulations, including but not limited to gas, steam, electricity, sewage disposal, communication, telegraph, and water.

**RECYCLING FACILITY** — A licensed facility for the collection and/or processing of recyclable materials, primarily household and communal waste. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use that is used solely for the recycling of material generated by that residential property, business or manufacturer. A recycling facility does not include scrap or salvage establishments and does not include the washing of equipment. Recycling facilities may include the following:

- a) **LARGE COLLECTION FACILITIES** — A center for the acceptance by donation, redemption, or purchase, of recyclable materials from the public occupying an area of more than 500 square feet, that may or may not include permanent structures.
- b) **SMALL COLLECTION FACILITIES** — A center or facility for the acceptance by donation, redemption, or purchase, of recyclable materials from the public occupying an area of no more than 500 square feet.
- c) **PROCESSING CENTER** — A building or enclosed space used for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

**REGULARLY** — When used in connection with the terms "regular features," "regularly shown" or similar terms in § 4.2B: Adult Regulated Uses, a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

REHABILITATION CENTER — See definition of "group living."

RELIGIOUS ASSEMBLY — Religious services involving public assembly such as customarily occurs in synagogues, temples, mosques, and churches.

REPAIR SERVICE, CONSUMER — Provision of repair services to individuals and households, but not to firms. Excludes automotive and equipment use types. This use does not include heavy or light equipment sales, servicing, or repair. Typical uses include appliance repair shops, locksmiths, shoe and apparel repair and musical instrument repair.

RESEARCH AND DEVELOPMENT — Research of an industrial or scientific nature generally provided as a service or conducted by a public agency or private firm. Typical uses include electronics research laboratories, environmental research and development firms, agricultural and forestry research labs, and pharmaceutical research labs.

RESTAURANT — An establishment where food and drink are prepared, served, and consumed, mostly within the principal building.

RETAIL SALES AND SERVICE — Businesses involved in the sale, lease or rent of new or used products to the general public. Excludes agricultural sales, animal services, automotive and equipment, business equipment sales and services, construction sales and services, food and beverage retail sales, gasoline sales and swap meets.

- a) INDOOR — The display and sale of products and services shall take place entirely within an enclosed building or structure. Typical uses in this category include department stores; apparel stores; hobby stores; bookstores; media stores; and furniture stores.
- b) OUTDOOR — Part or all of the display and sale of products and services, may take place outside of an enclosed building or structure. Typical uses in this category include sales of automobiles, trucks, motor homes, and other large vehicles; garden supplies, flowers, shrubs, and other plant materials; gas, tires, and motor oil (not in conjunction with gasoline or fuel sales); farm equipment; burial monuments; building and landscape materials; and lumber.

RETAIL STORE — Any and all mercantile establishments selling goods, wares or merchandise at retail or wholesale except as otherwise specified in this Ordinance.

RETENTION BASIN — A pond, pool, or basin used for the permanent storage of water runoff.

ROOFLINE — The top edge of the roof or the top of a parapet, whichever forms the top line of the building silhouette.

ROOMING/BOARDINGHOUSE — See definition of "group living."

SALES AND GROOMING — See definition of "animal service."

SCHOOLS — Public and private schools at the primary, elementary, middle, junior high, or high school level that provide state-mandated basic education.

SCRAP AND SALVAGE OPERATIONS — Storage, sale, dismantling, or other processing of used, source-separated, or waste materials not intended for reuse in their original form. Typical uses include automotive wrecking yards, junkyards, and salvage yards, but not recycling facilities.

SEATING CAPACITY — When used in computing required amounts of parking or loading pursuant to § 6.1: Off-Street Parking and Loading, the capacity of a facility to accommodate patrons or visitors, measured as follows:

- a) If the plans and specifications filed with the Building Inspector specify a certain fixed seating capacity for a particular building such specified fixed seating capacity shall be used as the basis for computing the storage or parking area required.
- b) If no plans or specifications specifying a seating capacity have been filed with the Building Inspector, then the number of seats shall be calculated by dividing the lateral length of seating facilities by 20 linear inches.

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Each twenty-inch length in such measurement shall be counted as one seat.

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**SEMINUDE OR STATE OF SEMINUDITY** — A state of dress in which opaque covering covers no more than the genitals or anus and nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided that the areola and nipple are not exposed in whole or in part.

**SIGN** — A structure, device, letter, word, model, banner, balloon, pennant, insignia, emblem, logo, painting, placard, poster, trade flag or representation, illuminated or nonilluminated, that is visible from a public place, including, but not limited to, highways, streets, alleys or public property, or is located on private property and exposed to the public, that directs attention to a product, service, place, activity, person, institution, business or solicitation.

**SIGN, ABANDONED** — A sign that no longer correctly advertises or directs a person to a bona fide business, person, goods, product, activity or service.

**SIGN AREA** — The entire area within a circle, triangle, parallelogram or any other shape that encloses the extreme limits of writing, representation, emblem, logo or any other figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign and decorative elements to enclose sign supports. Where the sign has two or more faces, the area of all faces shall be included in computing the area of the sign except:

- a) If the sign contains two faces, the area of the sign shall be computed as the area of one face; and if such faces are of an unequal area, the larger of the two faces shall determine the area.
- b) If the sign contains more than two faces (for example, a triangular sign with three distinct faces), the area of the sign shall be computed as the total area of all faces added together.
- c) Where a sign consists solely of writing, representation, emblems, logos or any other figure of similar character that is painted or mounted on the wall of a building or a self-supporting wall or fence, without a distinguishing border, the area of such sign shall be computed as if it were framed by a border consisting of horizontal and vertical lines extending not more than six inches from such sign elements.

**SIGN, AWNING** — A sign painted on, printed on or attached flat against the surface of an awning.

**SIGN, CANOPY** — A sign displayed and affixed flat on the surface of a canopy and does not extend vertically or horizontally beyond the limits of the canopy.

**SIGN, CHANGEABLE COPY** — Either of the following: **[Amended 8-19-2013 by Ord. No. 1912]**

- a) **MANUAL** — A sign on which a copy is changed manually, such as header boards with changeable letters or pictorials; or
- b) **AUTOMATIC** — An electrically controlled sign, where different copy changes are shown on the same unexposed lamp bank or rotating portion of the face of the sign. The following definitions are used in association with automatic changeable copy signs:
  - 1) **DISSOLVE** — A mode of message transition on an electronically changeable copy sign accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.
  - 2) **FADE** — A mode of message transition on an electronically changeable copy sign accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.
  - 3) **FLASH** — A mode of message transition on an electronically changeable copy sign accomplished by

§ 12.3 varying the light intensity, where the message instantly and repeatedly reduces or increases intensity. § 12.3

- 4) SCROLL — A mode of message transition on an electronically changeable copy sign accomplished by the movement of a message.

SIGN, COLD-AIR INFLATABLE BALLOON — A temporary/portable sign composed of a nonporous bag of tough, light material filled with unheated oxygen that may or may not float in the atmosphere.

SIGN, COMMUNITY SPECIAL EVENT — A sign, other than a public building bulletin board, that is erected for a limited time to call attention to special events of interest to the general public and sponsored by nonprofit groups, associations or corporations.

SIGN, CONSTRUCTION — A sign identifying the names of the project developers, contractors, engineers, architects and financial institutions, that is located on a site being developed or improved.

SIGN, DIRECTIONAL — Any sign that serves to designate the location or direction of any place or area located on the premises on which the sign is located.

SIGN, ELECTION CAMPAIGN — A sign that advocates or opposes a candidate for political office or an issue to be determined at an official federal, state, county, school or municipal election.

SIGN, FESTOON — A sign consisting of strings of exposed incandescent light bulbs, balloons or strings of pennants hung overhead to draw attention to items on display or a particular business establishment.

SIGN, FLASHING — A sign (i) that contains an intermittent or flashing, shimmering, or blinking light, or (ii) that gives the illusion of intermittent or flashing light by means of animation, mirrored surfaces, or an externally mounted intermittent light source, or (iii) that produces moving images through the use of video presentations or the creation of animated or moving images (such as "Jumbotron" light signs).

SIGN, FREESTANDING — A sign erected on a freestanding frame, mast, or pole and not attached to a building.

SIGN, HEIGHT — The vertical distance measured from the ground immediately beneath the sign to the highest point of the sign or its projecting structure.

SIGN, HELIUM-INFLATABLE BALLOON — A temporary/portable sign composed of a nonporous bag of tough, light material filled with helium that may or may not float in the atmosphere.

SIGN, ILLUMINATED — A sign that provides artificial light directly on or through any transparent or translucent material from a source of light connected with such sign, or a sign illuminated by a light source so obscured and shielded that no direct rays from it are visible from a public right-of-way or from an abutting property. **[Amended 8-19-2013 by Ord. No. 1912]**

SIGN, MARQUEE — A sign displayed on a marquee and does not extend vertically or horizontally beyond the limits of the marquee.

SIGN, NONCONFORMING — A sign that lawfully occupies a building or land that does not conform to the regulations of the zoning district in which it is located.

SIGN, OFF-PREMISES — A sign other than an on-premises sign.

SIGN, OFF-PREMISES DOUBLE-FACED — An off-premises sign containing not more than two sign faces located back-to-back and parallel to each other on the same structure.

SIGN, OFF-PREMISES STRUCTURE — A freestanding column, including associated supports and framework, that supports an off-premises sign independent of any building.

SIGN, ON-PREMISES — A sign identifying or advertising a business, person, activity, or service located on the premises where the sign is located.

SIGN, PERMANENT — Any sign that does not meet the definition of a "sign, temporary/portable."

SIGN, PROJECTING — A sign, other than a wall or marquee sign, that is perpendicularly attached to and projects from a structure or building face.



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**SIGN, REAL ESTATE** — A sign pertaining to the sale, lease, or rental of a building or land.

**SIGN, ROOF** — A sign erected upon, against or directly above a roof, or on top of or above the parapet of a building.

**SIGN, SANDWICH BOARD** — A temporary A-frame sign, not secured or attached to the ground or any building or structure, composed of a sign panel and supporting structure or one or more panels that form both the structure and sign face, and that is intended to be placed in a sidewalk or pedestrian way.

**SIGN, SPECIAL EVENT** — A temporary sign that advertises a special event. This does not include signs held or supported by a human or animal, which are not permitted.

**SIGN, SPECIAL PURPOSE OR SEASONAL** — A sign, other than an on- or off-premises sign, including, but not limited to, traffic signs, rest room signs, vending machines, door-opening directions, residential merchandise sales signs, organizations and signs, such as Christmas decorations, used for a historic holiday and installed for a limited period of time.

**SIGN, SUBDIVISION** — A sign that advertises a residential or commercial subdivision.

**SIGN, SWINGING** — A sign, installed on an arm or spar, that is not permanently fastened to an adjacent wall or upright pole and is prohibited.

**SIGN, TEMPORARY/PORTABLE** — A sign and sign structure (a) that is not constructed or intended for long term use in a fixed location, or (b) that is designed to facilitate the movement of the sign from one location to another, or (c) that is not permanently affixed including, but not limited to, devices, such as balloons or other inflatable devices, flags, streamers, searchlights, twirling or sandwich signs, banners, posters, sidewalk or curb signs, signs mounted on or affixed to trailers or wheels of any type and strings of lights, but not including a seasonal sign. The sign may or may not have wheels, changeable letters and/or hitches for towing.

**SIGN, WALL** — A sign that is painted or attached directly to the wall or other exterior surface of a building, or is directly visible through and attached to the inside or outside of a window of a building, and that does not project more than 18 inches from the exterior surface, with the face of the sign running on a parallel plane to the exterior surface of the building wall.

**SIT-DOWN RESTAURANT** — See definition of "eating and drinking establishments."

**SMALL COLLECTION FACILITIES** — See definition of "recycling facility."

**SPECIFIED ANATOMICAL AREAS** — Portions of the human body defined as follows:

- a) Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below the point immediately above the top of the areola;
- b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** — The explicit display of one or more of the following:

- a) Human genitals in a state of sexual stimulation or arousal;
- b) Acts of human masturbation, sexual intercourse, or sodomy;
- c) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

**SPORTS AND RECREATION, PARTICIPANT** — Provision of sports or recreation primarily by and for participants. (Spectators would be incidental and on a nonrecurring basis). The following are participant sports and recreation use types (for either general or personal use):

- a) **INDOOR** — Those uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, swimming pools and physical fitness centers.
- b) **OUTDOOR** — Those uses conducted in open facilities. Typical uses include driving ranges, miniature golf

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courses and swimming pools.

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**STEALTH** — When used in conjunction with § 4.2W: Telecommunications Facilities, any transmission tower or telecommunications facility that is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and transmission towers designed to look other than like a transmission tower such as light poles, power poles, and trees. The term "stealth" does not necessarily exclude the use of uncamouflaged lattice, guyed or monopole transmission tower designs.

**STORAGE OF VEHICLES AND BOATS** — See definition of "vehicle and equipment sales and service."

**STORY** — That portion of a building between a floor and the floor or roof next above it. A basement shall be counted as a story if its ceiling is over four feet above the average adjoining ground surface. An attic is to be counted as a story if it is occupied as a dwelling unit, or a part of a dwelling unit, or used for business sales or showrooms.

**STRUCTURE** — Anything built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**STRUCTURAL ALTERATION** — Any change in the supporting members of a building, bearing walls, columns, beams or girders, or any expansion or addition to the floor space of a building by the addition of bearing walls, columns, beams or girders.

**SUBSTANTIALLY ALTERED** — When used in connection with Chapter 7 (Signs), a change in a sign or sign structure, as differentiated from maintenance or repair, including a change in height, location, area, shape or material, except that which occurs in manual or automatic changeable-copy signs.

**TAVERN or LOUNGE** — See definition of "eating and drinking establishments."

**TEAROOM/CAFE** — See definition of "eating and drinking establishments."

**TELECOMMUNICATIONS FACILITIES** — When used in conjunction with § 4.2W: Telecommunications Facilities, any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications that a person seeks to locate or has installed upon or near a transmission tower or antenna support structure. However, the term telecommunications facilities shall not include any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

**TEMPORARY USE** — A use approved by the Zoning Board of Appeals to exist for a defined period of time.

**TRANSIENT MERCHANT** — A person or entity engaged in the sale of goods or the provision of services for payment or benefit, but who has no fixed place of business. Transient merchants are required to obtain a permit to do business from the City Clerk's office, and to maintain such permit in good standing at all times when business is conducted.

**TRANSITIONAL RESIDENCES** — See definition of "group living."

**TRANSMISSION TOWER** — When used in conjunction with § 4.2W: Telecommunications Facilities, the monopole or lattice framework designed to support transmitting and receiving antennas. For the purposes of this section, amateur radio transmission facilities are not "transmission towers." Transmission towers include:

- a) **GUYED TOWER** — A tower that is supported by the use of cables (guy wires) that are permanently anchored;
- b) **LATTICE TOWER** — A tower characterized by an open framework of lateral cross members that stabilize the tower; and
- c) **MONOPOLE** — A single upright pole, engineered to be self supporting and does not require lateral cross supports or guys.

**UTILITIES AND PUBLIC SERVICE** — Services and public utilities that have substantial impacts. Such uses may be permitted when the public interest supersedes the usual limitations placed on land use and transcends the usual

§ 12.3 restraints of the district for reasons of necessary location and community wide interest. Typical uses include: water and wastewater treatment facilities, major water storage facilities, airports, and detention, probation and correction institutions § 12.3

**VEHICLE AND EQUIPMENT SALES AND SERVICE** — Sales of motor vehicles or services related to motor vehicles. The following are vehicle and equipment sales and service use types:

- a) **CAR WASH** — Washing and polishing of automobiles. Typical uses include automatic and hand car washes.
- b) **FLEET STORAGE** — Fleet storage of vehicles used regularly in business operation and not available for sale, or long-term storage of operating vehicles. Typical uses include taxi fleets, mobile-catering truck storage, and auto storage garages.
- c) **HEAVY EQUIPMENT REPAIR** — Repair of trucks and other heavy equipment as well as the sale, installation, or servicing of automotive equipment and parts together with body repairs, painting, and steam cleaning. Typical uses include engine repair shops, body shops and motor freight maintenance groups.
- d) **LIGHT EQUIPMENT REPAIR** — Repair of automobiles and the sale, installation, and servicing of automobile equipment and parts but excluding body repairs and painting. Typical uses include muffler shops, auto or motorcycle repair garages and auto glass shops.
- e) **HEAVY EQUIPMENT SALES/RENTALS** — Sale, retail or wholesale, and/or rental from the premises of heavy construction equipment, trucks, and aircraft, together with incidental maintenance. Typical uses include heavy construction equipment dealers and tractor trailer sales.
- f) **LIGHT EQUIPMENT SALES/RENTALS (INCLUDING AUTOMOBILES)** — Sale, retail, wholesale, or rental from the premises of autos, noncommercial trucks, motorcycles, trailers with less than 10,000 pounds gross cargo weight, motor homes and boat dealers, together with incidental maintenance. Typical uses include automobile and boat dealers, car rental agencies and recreational vehicles sales and rental agencies.
- g) **STORAGE OF NONOPERATING VEHICLES** — Storage of nonoperating motor vehicles. Typical uses include storage of private parking towaways and impound yards.
- h) **STORAGE OF RECREATIONAL VEHICLES AND BOATS** — Storage of recreational vehicles and boats. Typical uses include the collective storage of personal recreational vehicles and boats.

**VETERINARY CLINIC** — See definition of "animal service."

**VETERINARY HOSPITAL** — See definition of "animal service."

**WHOLESALE, STORAGE, AND DISTRIBUTION** — Wholesaling, storage, distribution, and handling of materials and equipment other than live animals and plants. The following are wholesaling, storage and distribution use types:

- a) **MINI-WAREHOUSES** — Storage or warehousing service within a building for individuals to store personal effects and for businesses to store materials for operation of an industrial or commercial enterprise elsewhere. Incidental uses in a mini-warehouse may include the repair and maintenance of stored materials by the tenant; but in no case shall storage spaces in a mini-warehouse facility function as an independent retail, wholesale, business, or service use. Spaces shall not be used for workshops, hobby shops, manufacturing, or similar uses. Human occupancy shall be limited to that required to transport, arrange and maintain stored materials.
- b) **LIGHT** — Wholesaling, storage, and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses and moving and storage firms.
- c) **HEAVY** — Open-air storage, distribution, and handling of materials and equipment, or bulk storage of fuel. Typical uses include monument or stone yards, grain elevators and large-scale fuel storage.

**WIND ENERGY UNIT** — A wind energy conversion system that converts wind energy into electricity through the

§ 12.3 use of a wind turbine generator, and includes a wind turbine, blades, tower or monopole, and all related electrical equipment or system components. Such systems include building-mounted and freestanding units. [Added § 12.3 9-20-2010 by Ord. No. 1872]

- a) BUILDING-MOUNTED WIND ENERGY UNIT — A wind energy structure that is installed on the top of a building roof or attached to the side or rear of a building.
- b) SMALL, FREESTANDING WIND ENERGY UNIT — A monopole or tubular-designed wind energy structure with a maximum height of 60 feet.
- c) LARGE, FREESTANDING WIND ENERGY UNIT — A monopole or tubular-designed wind energy structure with a maximum height of 200 feet.
- d) MULTIPLE WIND ENERGY UNITS — Grouping of monopole or tubular-designed, freestanding wind energy structures that are allowed on multi-acre parcels.
- e) BREAKING/FEATHERING SYSTEM — A system included in a wind energy structure that prevents uncontrolled rotation, over-speeding, and excessive pressure on the tower facility, rotor blades, and other wind energy components to promote safe and efficient operation.

YARD, FRONT — That area measured by the full width of the front lot line to a depth measured from said front lot line to the first supporting member of a structure. In the case of corner lots, the front yard shall be the area measured by the lot lines on each street to a depth measured from said lot lines to the first supporting member of the structure.

YARD, REAR — That area measured by the full width of the rear lot line to a depth measured from said rear lot line to the rear-most supporting member of a structure.

YARD, SIDE — An open space unoccupied and unobstructed from the ground upward between the building and the side lot line extending from first supporting member of a structure in the front to the rear-most supporting member of a structure.

ZONING BOARD — The Zoning Board of Appeals of the City of Kalamazoo.

**Appendix B**

**LAND SUBDIVISION STANDARDS ORDINANCE**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 8-11-1958 by Ord. No. 541. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Planning Commission — See Ch. 2, Art. IV.**

**Soil erosion and sedimentation control — See Ch. 30.**

**Buildings and building regulations — See Ch. 9.**

**Streets and other public grounds — See Ch. 33.**

**Housing Code — See Ch. 17.**

**Swimming pools — See Ch. 34.**

**Land division — See Ch. 20A.**

**Water — See Ch. 38.**

**Wastewater discharge regulations and enforcement procedures — See Ch. 28.**

**Trees — See Ch. 42.**

**Stormwater system — See Ch. 29.**

**Zoning — See Appendix A.**





**STATUTORY REFERENCES**

**Land Division Act — See MCLA § 560.101 et seq.**







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AN ORDINANCE ESTABLISHING REGULATIONS AND STANDARDS FOR THE SUBDIVISION OF LAND AND THE PREPARATION AND PRESENTATION OF SUBDIVISION MAPS THEREOF.



THE CITY OF KALAMAZOO ORDAINS:





CHAPTER I  
**Title and Purpose**

**§ 1.10. Title.**

This Ordinance shall be known as the "Land Subdivision Standards Ordinance" of the City of Kalamazoo, Michigan.

**§ 1.20. Purpose.**

The purpose of this Ordinance is to establish procedures and standards for the development and subdivision of land and the platting thereof to provide for efficient, adequate and sufficient streets with adequate widths and proper alignment and grades designed to promote the public safety, health and general welfare, to provide for suitable residential neighborhoods with adequate streets and utilities and appropriate building sites, to save unnecessary expenditures of public funds by reserving space for public lands and buildings and proper construction of streets and utilities, and to provide proper land records for the convenience of the public and for better identification and permanent location of real estate boundaries.



**§ 2.10. Subdivision. [Amended 6-23-1969 by Ord. No. 830]**

The term "subdivision" means the division of a parcel of land into five or more lots or parcels for the purpose of transfer of ownership or building development; provided, that a division of land for agricultural purposes into parcels of 10 acres or more shall not be deemed a subdivision.

**§ 2.20. Plat.**

A "plat" means the final map, drawing, or chart on which the subdivider's plan of subdivision is presented to the Planning Commission for approval. (Chapter VI contains the detailed plat data.)

**§ 2.30. Street.**

The term "street" means a way for vehicular traffic, whether designated as a street, highway, thorofare, park-way, road, avenue, boulevard, land, place, or however otherwise designated.

§ 2.31 "Arterial streets" and "highways" are those which are used primarily for fast and heavy traffic (designated as interregional and regional thorofares on the Major Thorofare Plan).

§ 2.32 "Collector streets" are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development (designated as secondary thorofares on the Major Thorofare Plan).

§ 2.33 "Minor streets" are those used primarily for access to the abutting properties.

§ 2.34 "Marginal access streets" are minor streets which are parallel to and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

§ 2.35 "Alleys" are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.



CHAPTER III  
Procedure

**§ 3.00. Pre-Application Procedure (Step One).**

§ 3.01 Previous to the filing of an application for conditional approval of the preliminary plat the subdivider shall submit to the City Planning Director plans and data as specified in Chapter VI, § 6.00. The Planning Director will act as a clearinghouse and forward the information to all concerned departments for their recommendations.

§ 3.02 Within 15 days, the City Planning Director shall inform the subdivider in writing that the plans and data as submitted or as modified do or do not meet the objectives of these regulations. When the City Planning Director finds the plans and data do not meet the objectives of these regulations he/she shall express the reasons therefor in writing. No commitments can be made by the City Planning Director at this stage as to the official acceptance of the preliminary plat. Appeal from the findings of the Planning Director may be made to the City Planning Commission.

**§ 3.10. Procedure for Conditional Approval of Preliminary plat (Step Two).**

§ 3.11 On reaching conclusions informally, as recommended in § 3.00 above, regarding his general program and objectives the subdivider shall cause to be prepared by a registered professional engineer or surveyor a preliminary plat, together with improvement plans and other supplementary material as specified in Chapter VI.

§ 3.12 Five copies of the preliminary plat and supplementary material shall be submitted to the Planning Department with written application for conditional approval at least two weeks prior to the meeting of the Planning Commission at which it is to be considered.

§ 3.13 The preliminary plat will be checked by the Planning Department as to its conformity with the Major Street Plan, Land Use Plan and the principles, standards and requirements hereinafter set forth. Copies of said preliminary plat will be referred by the Planning Department to the City Engineer, the Traffic Engineer, the Utilities Director, the Health Officer and the public utility companies involved for study and recommendation on items within their jurisdiction. Said recommendations shall be made in writing within two weeks.

§ 3.14 On the basis of the recommendations of the appropriate departments and its own investigations, the Planning Commission shall determine whether the lands are suitable for platting purposes. Lands subject to flood or deemed to be topographically unsuitable because of relief, drainage, soil character or other conditions shall not be platted for residential purposes nor for such other uses as may increase danger to health, life or property or aggravate erosion or flood hazard.

§ 3.15 The Planning Commission shall, within 40 days of its first meeting after receiving the Plat, conditionally approve or disapprove the preliminary plat, or approve it with modifications, noting thereon any changes that will be required. If the preliminary plat be disapproved, the reasons therefor shall be presented in writing to the subdivider. The action of the Planning Commission shall be noted on two copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other retained by the Planning Commission. Similar copies will be transmitted to the City Engineer, the Traffic Engineer, and where appropriate, to the Utilities Director and the Health Officer. Appeal from the action of the Planning Commission may be made to the City Commission.

§ 3.16 Conditional approval of a preliminary plat shall not constitute approval of the final subdivision plat. Rather it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the installation of streets, sewers and other required improvements and the preparation of the final plat. Conditional approval is effective for one year unless extended by the Planning Commission.

§ 3.20

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**§ 3.20. Procedure for Approval of Final Plat (Step Three).**

- § 3.21 The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he/she proposes to record and develop at the time; provided, however that such conforms to all requirements of these regulations.
- § 3.22 Application for approval of the final plat shall be submitted in writing to the Planning Department at least two weeks prior to the meeting of the Planning Commission at which it is to be considered. The application shall be accompanied by a fee of \$60 to be deposited with the City Treasurer by the subdivider to provide for the expense of inspections of lands, checking of the plat and fees required to be paid under the State Plat Act.
- § 3.23 Five litho prints on cloth of the final plat and other exhibits required for approval shall be submitted to the Planning Commission within one year after approval of the preliminary plat; otherwise such approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.
- § 3.24 The final plat will be checked by the Planning Department for compliance with the formal provisions of these regulations. Copies of the final plat will be referred by the Planning Department to the City Engineer, the Traffic Engineer, the Utilities Director, the Health Officer and the public utility companies involved for their final study and recommendations on matters within their jurisdiction.
- § 3.25 The above mentioned officials will, within two weeks, return the said copies of the final plat together with a two-fold certificate showing (a) the technical details within their jurisdiction have been checked and found satisfactory, and (b) all required improvements within their jurisdiction have been completed to their satisfaction or that a surety bond has been posted with the City of Kalamazoo to insure to the City that the improvements will be completed within two years after approval of the final plat.
- § 3.26 After the foregoing recommendations and certificates have been received, and provided that the final plat is found to conform with the preliminary plat as tentatively approved and the requirements of the State Plat Act, the Planning Commission will, within 40 days of its first meeting after receiving the final plat, enter such approval thereon in writing by the Planning Director. The approval of the final plat by the Planning Commission shall not be deemed to constitute or effect an acceptance by the public of the dedication of any street or other proposed public way or space shown on said plat.
- § 3.27 After approval by the Planning Commission said Commission will deliver the five copies of the final plat along with certification of title, consisting of either an attorney's opinion or title insurance, to the City Commission for approval and necessary action on any proposed dedications. If the City Commission shall approve the final plat, it shall cause to be transcribed upon the plat its certificate of approval. Action by the City Commission to approve or disapprove the final plat shall be taken within 14 days after the action of the City Planning Commission.
- § 3.28 The City Clerk shall deliver the five copies of the final plat together with a fee of \$10 to the Kalamazoo County Plat Board. When said Plat Board has approved the final plat, the Board will endorse its approval thereon and will forward the five copies to the office of the Auditor General with a fee of \$10. If and when the final plat has been approved by the Auditor General, and copies are returned by him/her to the County Register of Deeds and to the City Clerk, the subdivision will be recorded as a plat of record.

**CHAPTER IV  
Design Standards**

**§ 4.00. Streets.**

§ 4.01 The arrangement, character, extent, width, grade and location of all streets shall conform to the City of Kalamazoo Major Thorofare Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

§ 4.02 Where such is not shown in the Thorofare Plan, the arrangement of streets in the subdivision shall either:

- (1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas, or
- (2) Conform to a plan for the neighborhood approved or adopted by the Planning Commission.

§ 4.03 Minor streets shall be laid out so that their use by through traffic will be discouraged.

§ 4.04 Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection to residential properties and to afford separation of through and local traffic.

§ 4.05 Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

§ 4.06 Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the City under conditions approved by the Planning Commission.

§ 4.07 Street jogs with center line offsets of less than 125 feet shall be avoided.

§ 4.08 A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.

§ 4.09 When connecting street lines deflect from each other at any one point by more than 10°, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 200 feet for minor and collector streets, and of such greater radii as the Planning Commission shall determine for special cases.

§ 4.10 Streets shall be laid out so as to intersect as nearly as possible at right angles and no streets shall intersect any other street at less than 60°.

§ 4.11 Rounded property corners at street intersections shall be avoided wherever possible. The Planning Commission may require or permit comparable cut-offs, chords or rounded corners when deemed necessary due to street intersection angles.

§ 4.12 Street right-of-way widths shall be as shown in the Thorofare Plan and where not shown therein shall be not less than as follows:

Street Type	Right-of-Way (feet)
Arterial	86 — 200
Collector	66 — 100

§ 4.00

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Street Type	Right-of-Way (feet)
Minor	66
Marginal access	50

§ 4.13 Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and where the Planning Commission finds it will be practicable to require the dedication of the other half where the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided the other half of the street shall be platted within such tract.

§ 4.14 Dead-end streets, designed to be so permanently, shall not generally be longer than 500 feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 80 feet, and a street property line diameter of at least 100 feet.

§ 4.15 No street names shall be used which will duplicate or be confused with the names of existing streets. New streets which are extensions of or obviously in alignment with existing streets shall bear the name of the existing streets. Street names shall be subject to the approval of the Planning Commission.

§ 4.16 Street grades, wherever feasible, shall not exceed the following, with due allowance for reasonable vertical curves:

Street Type	Percent Grade
Arterial	5%
Collector	5%
Minor	8%
Marginal Access	8%

§ 4.17 No street grade shall be less than 0.4% with 0.5% the preferred minimum.

§ 4.18 All subdivisions adjacent to or containing a state highway trunkline shall be submitted to the State Highway Commissioner for approval.

**§ 4.20. Alleys.**

§ 4.21 Alleys shall be provided in commercial and industrial districts, except that the Planning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street parking, loading and unloading consistent with and adequate for the uses proposed. Alleys shall not be permitted in residential districts unless approved by the Planning Commission.

§ 4.22 The width of an alley shall be 20 feet.

§ 4.23 Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

§ 4.24 Dead-end alleys shall be avoided where possible, but, if unavoidable, shall be provided with adequate turn-around facilities at the dead-end as determined by the Planning Commission.

**§ 4.30. Easements.**

§ 4.31 Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be of such width as may be reasonably necessary for the utility or utilities to be benefited.



§ 4.30  
§ 4.32 Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such additional width as will be adequate for the purpose. § 4.50

**§ 4.40. Blocks.**

§ 4.41 The lengths, widths, and shapes of blocks shall be determined with due regard to:

- (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
- (2) Zoning requirements as to lot sizes and dimensions.
- (3) Needs for convenient access, circulation, control and safety of street traffic.
- (4) Limitations and opportunities of topography.

§ 4.42 The long dimension of a block shall generally not exceed 1300 feet or be less than 500 feet.

§ 4.43 The number of intersecting streets along arterial streets and highways shall be kept to a minimum. Wherever practicable, blocks along such traffic ways shall be not less than 1,200 feet in length.

§ 4.44 Pedestrian crosswalks, not less than 10 feet wide, shall be required where deemed essential in or near the middle of the block to provide circulation or access to schools, playgrounds, shopping centers, transportation, and other community facilities on blocks exceeding 900 feet in length.

**§ 4.50. Lots.**

§ 4.51 The lot size, width, depth, shape, and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

§ 4.52 Lot dimensions shall conform to the requirements of the zoning ordinance and:

- (1) Residential lots served by public sewer and public water shall be not less than 60 feet wide at the building line or at a line 30 feet behind the building line, whichever is lesser, nor less than 6,000 square feet in area.
- (2) Residential lots served only by public sewer or public water shall be not less than 70 feet wide at the building line or at a line 30 feet behind the building line, whichever is the lesser, nor less than 8,800 square feet in area.
- (3) Residential lots served by neither public sewer nor public water shall be not less than 75 feet wide at the building line or at a line 30 feet behind the building line, whichever is the lesser, nor less than 9,800 square feet in area.

§ 4.53 Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

§ 4.54 Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets.

§ 4.55 The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

§ 4.56 Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least five feet, across which there shall be no right of access,

§ 4.50 shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use. § 4.60

§ 4.57 Side lot lines shall be substantially at right angles or radial to street lines.

**§ 4.60. Public Sites and Open Spaces.**

§ 4.61 Where the Planning Commission determines defined areas located in whole or in part within a proposed subdivision are reasonably necessary for park, playground, school, public utility or other public purposes, it shall notify the applicant and public agency involved before conditional approval of the plat is granted. Thereafter and unless the applicant is willing to dedicate such area without cost, the public agency involved shall, within 60 days, tender the reasonable raw land market value of said area to the applicant or contract to pay said sum with reasonable interest within a two-year period. Upon such payment the public body shall be entitled to a warranty deed to said area. Where a proposed plat has been submitted and portions thereof are proposed to be developed from time to time the requirement of payment for acquisition of areas to be developed for public use shall apply as the plat of each area is accepted for final approval.

CHAPTER V  
**Required Improvements**

**§ 5.00. Utility Improvements. [Amended 7-27-1959 by Ord. No. 564]**

§ 5.01 Utility improvements relating to sewers, water mains and fire hydrants and all street improvements shall be provided in each new subdivision in accordance with the current official standards and requirements recommended by the City Engineer and established by resolution of the City Commission and on file in the office of the Department of Public Works. Where outlets are readily available, new plats shall be equipped with storm and sanitary sewers constructed in a manner approved by the City Engineer.



CHAPTER VI  
**Plats and Data**

**§ 6.00. Pre-Application Plans and Data.**

§ 6.01 General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required below. This information may include data on existing covenants, land characteristics, and available community facilities and utilities; and information describing the subdivision proposal such as number of residential lots, typical lot width and depth, business areas, playgrounds, park areas, and other public areas, proposed protective covenants and proposed utilities and street improvements.

§ 6.02 Sketch plan on topographic or aerial survey shall show in simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a free hand pencil sketch made directly on a print of the topographic survey. In any event, the sketch plan shall include sufficient information to permit reasonably accurate advice by the Planning Department.

**§ 6.10. Plats and Data for Conditional Approval.**

§ 6.11 Data required as a basis for the preliminary plat in § 6.12 shall include any or all existing conditions as follows, when specified by the Planning Commission.

- (1) Boundary lines: bearings and distances of tract.
- (2) Easements: location, width, and purpose.
- (3) Streets on and adjacent to the tract: name and right-of-way width and location; type, width and elevation of surfacing; any legally established center line elevations; walks, curbs, gutters, culverts, etc.
- (4) Utilities on and adjacent to the tract: location, size, and invert elevation of sanitary and storm sewers; location and size of water mains; location of fire hydrants; if water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to, and size of nearest ones, showing invert elevation of sewers. The City shall provide such data and recommendations as may be pertinent to this requirement.
- (5) Ground elevations on the tract: based on a datum plan approved by the City Engineer: for land that slopes less than approximately 2% show spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions; contours with an interval of not more than two feet shall be shown for all lands on a plan with a scale of 200 feet per inch or larger.
- (6) Subsurface conditions on the tract, if required by the Health Officer: location and results of at least one test per acre made to ascertain subsurface soil, rock and groundwater conditions, depth to groundwater unless test pits are dry at a depth of eight feet; location and results of soil percolation tests if individual sewage disposal systems are proposed.
- (7) Other conditions on the tract: watercourse, marshes, rock outcrop, wooded areas, isolated preservable trees one foot or more in diameter, houses, barns, shacks, and other significant features.
- (8) Title and certificates: present tract designation according to official records in office of County Register of Deeds; title under which proposed subdivision is to be recorded, with names and addresses of owners, notation stating acreage, scale, north arrow, datum, benchmarks, certification of registered civil engineer or surveyor, date of survey.

§ 6.12 Preliminary plat shall be at a scale of 200 feet to one inch or larger (preferred scale of 100 feet to one inch). It shall show all existing conditions required above in § 6.11, and shall show all proposals including the

§ 6.10  
following:

§ 6.20

- (1) Streets: names; right-of-way and roadway widths; approximate grades and gradients; similar data for alleys, if any.
- (2) Other rights-of-way or easements: location, width and purpose.
- (3) Location of sewer and water facilities and fire hydrants, if not shown on other exhibits.
- (4) Lot lines and lot numbers.
- (5) Sites, if any, to be reserved or dedicated for parks, playgrounds, or other public uses.
- (6) Sites, if any, for multifamily dwellings, shopping centers, churches, industry or other nonpublic uses exclusive of single-family dwellings.
- (7) Site data, including total acres, number of lots, typical lot dimensions and area, lineal feet in streets, acres in streets, parks, etc.
- (8) Title, scale, north arrow and date.

§ 6.13 Other preliminary plans. When required by the Planning Commission, the preliminary plat shall be accompanied by profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical cross sections of the proposed grading, roadway and sidewalk; and preliminary plan of proposed sanitary and stormwater sewers with grades and sizes indicated. All elevations shall be based on a datum plane approved by the City Engineer.

#### **§ 6.20. Plats and Data for Final Approval.**

§ 6.21 Final plat shall be drawn in ink on tracing cloth on sheets 18 inches wide by 24 inches long and shall be at a scale of 100 feet to one inch or larger. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Planning Commission. The final plat shall show the following:

- (1) Primary control points, approved by the City Engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred.
- (2) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites; with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves.
- (3) Name and right-of-way width of each street or other right-of-way.
- (4) Location, dimensions and purpose of any easements.
- (5) Number to identify each lot or site.
- (6) Purpose for which sites, other than residential lots, are dedicated or reserved.
- (7) Minimum building setback line on all lots and other sites.
- (8) Location and description of monuments.
- (9) Names of record owners of adjoining unplatted land.
- (10) Reference to recorded subdivision plats of adjoining platted land by record name, date and number.
- (11) Certification by surveyor or engineer certifying to accuracy of survey and plat.

- § 6.20 (12) Certification of title showing that applicant is the landowner. Said certification shall be in the form of either an attorney's opinion or title insurance. § 6.20
- (13) Statement by owner dedicating streets, rights-of-way and any sites for public uses.
- (14) Certification by the City Treasurer and the County Treasurer showing that all taxes and assessments have been paid.
- (15) Title, scale, north arrow, and date.
- § 6.22 Cross sections and profiles of streets showing grades approved by the City Engineer. The profiles shall be drawn to city standard scales and elevations and shall be based on a datum plane approved by the City Engineer.
- § 6.23 A certificate by the City Engineer certifying that the subdivider has complied with one of the following alternatives:
- (1) All improvements have been installed in accord with the requirements of these regulations and with the action of the Planning Commission giving Conditional Approval of the preliminary plat, or
  - (2) A bond or certified check has been posted, which is available to the City of Kalamazoo, and in sufficient amount to assure such completion of all required improvements within two years after approval of the final plat.
- § 6.24 Other data: Such other certificates, affidavits, endorsements, or deductions as may be required by the Planning Commission in the enforcement of these regulations.





CHAPTER VII  
**Variances**

**§ 7.00. Hardship.**

Where the Planning Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided, that such variation will not have the effect of nullifying the intent and purpose of officially adopted community plans or these regulations.

**§ 7.10. Large Scale Development.**

The standards and requirements of these regulations may be modified by the Planning Commission in the case of a plan and program for a new town, a complete community, or a neighborhood unit, which, in the judgement of the Planning Commission, provide adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan.

**§ 7.20. Conditions.**

In granting variances and modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.



CHAPTER VIII  
**Conflicting Regulations**

**§ 8.00. Continuation of Other Regulations.**

In applying the provisions of this Ordinance they shall be interpreted to be the minimum requirements. It is not intended to repeal, annul, or in any way set aside any ordinance or regulation or any plat or deed restriction that imposes greater requirements.



CHAPTER IX  
**Severability**

**§ 9.00. Validity.**

The sections, subsections, provisions and individual regulations of this Ordinance are deemed to be severable and should any portion of this Ordinance be declared by a court of competent jurisdiction to be invalid the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared to be invalid.



CHAPTER X  
Effective Date

**§ 10.00. Date of Adoption.**

The foregoing Ordinance was adopted by the City Commission of the City of Kalamazoo on the 11th day of August, 1958 and was approved by the Mayor on the same date. The Ordinance shall be effective on August 21, 1958.

/s/ \_\_\_\_\_  
Mayor

/s/ \_\_\_\_\_  
City Clerk





**Appendix C**

**CONSTITUTION OF THE KALAMAZOO MUNICIPAL GOLF ASSOCIATION**



§ 10.00

§ 10.00

**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 9-2-1986; amended in its entirety 12-6-2010. Amendments noted where applicable.]**



ARTICLE I  
General

**§ 1. Name.**

- A. The name of this organization shall be "The Kalamazoo Municipal Golf Association" and referred to in this Constitution as "Association."
- B. The governing body of this association shall be known as "the Board of Governors" and referred to in this Constitution as "the Board."
- C. The Association shall be responsible to the City Commission of the City of Kalamazoo, Michigan.

**§ 2. Membership.**

Membership in the Kalamazoo Municipal Golf Association shall be open to any person irrespective of age, race, sex, religion, or any further consideration other than his or her payment of the annual dues. In addition, the rules and regulations governing conduct of members shall be observed.

**§ 3. Annual meeting.**

The annual meeting shall be held on the third Tuesday of November each year. The purpose of said meeting is to receive a financial report, a Greens Committee report, and a statement of activities from the Board President and to transact such other business as properly comes before the Association.

- A. Beginning in 2010, two members shall be elected to serve three-year terms on the Board of Governors at each annual meeting.
- B. The date, location, and time of the annual meeting shall be mailed to all members of the Association. Ballots containing the names of the candidates for election to the Board of Governors and a short paragraph about each candidate shall be mailed to all members of the Association one month in advance of the annual meeting.
- C. A public notice of the annual meeting shall be posted at the Milham Park and Eastern Hills clubhouses one month in advance of the annual meeting.



ARTICLE II  
**Board of Governors**

**§ 1. Members of the Board of Governors.**

- A. This Association shall be managed by a Board of Governors, consisting of (i) members of the Association elected at the Annual Meeting, the majority of whom shall be residents of the City of Kalamazoo; (ii) two City residents who have a demonstrated interest or background in golf, turf management, finance or accounting and who shall be appointed by the City Commission; and (iii) the three following ex officio public officials who shall have voting privileges; the City Manager, or his or her designee, the Director of Parks and Recreation, or his or her designee, and the Director of Finance, or his or her designee.
- B. The elected and appointed members of the Board of Governors shall hold their offices for three years or until their successors are elected or appointed. An elected or appointed member may not serve more than two consecutive terms of the Board of Governors. Elected or appointed members who are serving on the Board as of June 1, 2010, are deemed as serving in his or her first term and are eligible for only one additional consecutive term on the Board..

**§ 2. Candidates for the Board of Governors.**

By September 15 of each year, the Secretary shall notify membership of the annual election of members to the Board of Governors through conspicuous posting of notices in each golf course clubhouse. Such notice shall provide information as to how members interested in seeking election to the Board of Governors should disclose their candidacy to the Secretary.

- A. The Secretary shall compile a list of all members who have declared they are a candidate for the Board of Governors.
- B. The list of candidates shall be presented by the Secretary to the Board of Governors at its regular October meeting and a ballot shall be created.
- C. Additional spaces shall be provided on the ballot for write-in candidates.

**§ 3. Election of Board of Governors.**

- A. The election of Association members to the Board of Governors shall be by ballot. Ballots containing the candidates' names shall be mailed to all members of the Association at least two weeks prior to the date of the Annual Meeting. Said ballot may be voted and mailed to the Secretary, dropped off at any clubhouse prior to the date of the annual meeting, or may be cast at the annual meeting.
- B. Beginning with the November, 2010, election, no less than five Association members, and with the November, 2011, election, no less than four Association members, elected to the Board shall reside within the City of Kalamazoo.
- C. The two candidates receiving the highest number of votes shall be declared elected to the Board of Governors; provided, however, in all elections where it is necessary to elect a member or members residing within the City limits of the City of Kalamazoo, the successful candidates shall be chosen from those City resident members receiving the highest number of votes, regardless of ballots cast.

**§ 4. Election of officers of Board of Governors; quorum; neglect of duties; vacancies.**

- A. An election of officers of Board of Governors shall take place at the January meeting. The following shall be elected:
  - (i) President.

§ 4

§ 5

(ii) Vice President.

(iii) Secretary.

- B. In addition, the President shall appoint a Greens Committee Chairman and a business manager, subject to Board approval. Neither the Greens Committee Chairman nor the business manager shall be required to be elected or appointed members of the Board.
- C. A majority of the Board of Governors shall constitute a quorum.
- D. Any elected members of the Board or any officer of the Association who neglects his duties or violates the rules of the Association may be removed from office. A petition of 20 members of the Association and/or 2/3 vote of the Board of Governors is necessary for such action. Appointed members of the Board may be removed from office for cause by the City Commission.
- E. Vacancies on the Board of Governors caused by change of residence, being absent from three consecutive meetings unless excused by the Board, or failing to attend at least eight of the 11 regularly scheduled, monthly board meetings during the year, or for any other cause, shall be filled by the City Commission in the case of an appointed member and by Board of Governors in the case of elected members; provided, however, such person shall stand for election for the remainder of the term at the November Annual Meeting.

#### **§ 5. Duties of Board of Governors.**

The duties of the Board of Governors shall be:

- A. To select officers as provided in § 4 of Article II.
- B. To be the final authority upon all matters affecting the Association and the golf courses.
- C. To enact and enforce such rules and regulations for the use of the golf courses and for the conduct of members as it may deem necessary.
- D. To have the authority to discipline or expel members for infraction of the rules; a 2/3 vote of the entire Board being necessary for such action and after giving the member involved reasonable notice of the reason for the action and an opportunity to address the Board regarding his or her position.
- E. To control and direct the expenses and have management of the practical working of the Association, providing that any proposal to expend money for any purpose shall receive the affirmative vote of at least one of the ex officio members.
- F. To appoint any special committee which it considers necessary, but such committee shall have only the power of recommendation to the Board on all matters pertaining to the expenditure of money.
- G. To adopt a budget for one year at the regular monthly meeting in February. Specific amounts shall be set up for expenditures during the fiscal year. Said budget shall be approved by the City Commission of the City of Kalamazoo.
- H. To recommend with the budget in November of each year for the approval of the City Commission such greens fees and membership fees as shall be charged for the following year.
- I. To conform in all respects, in the operation of the Association, to the provisions of this Constitution, and at no times to deviate from those provisions. If changes are necessary, it shall be by amendment as provided for in Article IV.
- J. To see that those who handle money for the Board shall be bonded in an amount sufficient to protect all interests of the Association. The cost of the premium of said bond is to be paid by the Association.



§ 5  
K. To see that an annual audit is performed of the Association's financial affairs.

§ 5



ARTICLE III  
**Offices and Duties**

**§ 1. Duties of the President.**

- A. It shall be the duty of the President to preside at all meetings of the Board of Governors, with full voting privileges, and to perform such other duties as provided by the Constitution and the Board of Governors.
- B. He/she or she shall be an ex-officio member of all committees.
- C. To preside over and present at the annual meeting a report covering the activities of the Association.

**§ 2. Duties of the Vice President.**

In case of the absence or disability of the President to act, the Vice President shall assume all the powers and perform all the duties of the President during such absence or disability.

**§ 3. Duties of the Secretary.**

- A. In case of the absence or disability of the President and the Vice President, then the Secretary shall assume and perform all the powers and duties of the President during such absence or disability.
- B. To issue notice of association meetings and keep minutes of same.
- C. To conduct any general correspondence of the association.

**§ 4. Duties of the business manager.**

- A. To maintain appropriate documents as required recording the financial results of the Association.
- B. To receive and keep on deposit all monies of the Association.
- C. To present a financial report each month to the Board of Governors showing receipts, expenses, disbursements, and balance on hand.
- D. To disburse money upon direction of the Board of Governors.
- E. To render to the Board of Governors at the end of each calendar year a complete report of the financial transactions for the year.
- F. To make certain that accounts are audited annually by a recognized auditing firm.
- G. To prepare a tentative budget for the January meeting.

In the event a Board of Governors fails to perform the duties as set forth in this Constitution, the City Commission is empowered to appoint a Board of Governors for the management of the golf course.



ARTICLE IV  
**Amendment**

**§ 1. Amendment.**

This Constitution may be altered or amended by either of the two following manners:

- A. At any annual meeting of the Association, or at any meeting where notice of the purpose is given, by a majority vote of the Association members present and voting, provided that any alterations or amendments must be approved by the City Commission of the City of Kalamazoo before they go into effect.
- B. By a majority vote of the City Commission of the City of Kalamazoo.



**Appendix D**

**VOTING PRECINCT BOUNDARY DESCRIPTIONS**





§ 1  
[**HISTORY: Adopted by the City Election Commission 2-21-2002. Amendments noted where applicable.**] § 1

**GENERAL REFERENCES**

**Elections — See Ch. 13.**



**CHARTER REFERENCES**

**Election Commission to establish precincts — See § 3(b).**



**Precinct 1.**

Start at the corner of S. Westnedge and Academy. Academy east to S. Rose. S. Rose north to W. Michigan. W. Michigan east to Pitcher. Pitcher south to Walnut. Walnut west to Portage. Portage south to Lake, Lake west to S. Burdick. S. Burdick north to Burr Oak. Burr Oak west to S. Park St. S. Park north to Vine. Vine west to S. Westnedge. S. Westnedge north to start.



Precinct 1  
**Precinct 2.**

Precinct 2

Start at corner of Kendall and City Limits. Follow city limit east to Academy. Academy east to W. Michigan. W. Michigan southwest to W Lovell. W. Lovell east to Davis. Davis south to Grant. Grant west to Oakland. Oakland south to Howard. Howard northwest to Kendall. Kendall north to start.





Precinct 2  
**Precinct 3.**

Precinct 3

Start at the corner of W. Michigan and Academy. Academy east to S. Westnedge. S. Westnedge south to Vine. Vine east to S. Park. S. Park south to Park Pl. Park Pl. west to S. Westnedge. S. Westnedge north to Wheaton. Wheaton west to Oakland. Oakland north to Grant. Grant east to Davis. Davis north to W. Lovell. W. Lovell west to W. Michigan. W. Michigan north to start.



Precinct 3  
**Precinct 4.**

Precinct 4

Start at the corner of Howard and Kendall. Howard southeast to Amtrack railroad line. Amtrack railroad line west to W. Michigan. W. Michigan northeast to Dobbin Dr. Dobbin Dr. northwest to Weaver. Weaver north to Kendall. Kendall north to start.



Precinct 4  
**Precinct 5.**

Precinct 5

Start at the corner of Wimbledon Way and the city limit. City limit south and east to Kendall. Kendall south to Weaver. Weaver southwest to Dobbin. Dobbin south to W. Michigan. W. Michigan west to Amtrack line. Amtrack line west to Drake. Drake north to Hemmingway. Hemmingway east to Dillingham. Dillingham north to Wimbledon. Wimbledon north to start.



Precinct 5  
**Precinct 6.**

Precinct 6

Start at the most northwest boundary of the city limits. Follow the city limits east, then south, then west, then south to Wimbleton Way. Wimbleton Way south to Dillingham Ln. Dillingham Ln. south to Hemmingway Dr. Hemmingway Dr. west to city limit. City limit north to start, including the portion of land that extends westerly from Drake Rd. and contains Mt. Ever-Rest Memorial Gardens.





Precinct 6  
**Precinct 7.**

Precinct 7

Start at the northwest boundary of city limits just north of Ravine Rd. City limits east to Douglas. Douglas south to W. Paterson. W. Paterson east to Staples. Staples south to North St. North St. west to Douglas. Douglas south to W. Main St. W. Main St. east to W. Michigan. W. Michigan south to Academy. Academy west to city limits. City limits north to start.



Precinct 7  
**Precinct 8.**

Precinct 8

Start at the corner of Staples and W. Paterson. W. Paterson east to Cobb Ave. Cobb south to William. William east to N. Westnedge. N. Westnedge south to Norway. Norway east to N. Rose. N. Rose north to Bush St. Bush St. east to N Burdick. N. Burdick south to Parsons. Parsons east to Porter. Porter south to E. Michigan. E. Michigan west to S. Rose. S. Rose south to Academy. Academy west to W. Michigan. W. Michigan north to W. Main. W. Main west to Douglas. Douglas north to North St. North St. east to Staples. Staples north to start.



Precinct 8  
**Precinct 9.**

Precinct 9

Start at the northwest boundary of city limits at Barney Rd. Follow city limits east, south, and east. Where the city limits turn north, continue east along an imaginary line, in line with E. Dunkley St., to the Kalamazoo River. Kalamazoo River south to E. Michigan. E. Michigan west to Porter. Porter north to Parsons. Parsons west to Burdick. Burdick north to Bush. Bush west to Rose. Rose south to Norway. Norway west to N. Westnedge. N. Westnedge north to William. William west to Cobb. Cobb north to W Paterson. W Paterson west to Douglas. Douglas north to city limit. Follow city limit east, north, east, north, west, and north to start.



Precinct 9  
**Precinct 10.**

Precinct 10

Start at the northwest corner at Mosel Avenue near the east bank of the Kalamazoo River. Follow the city Limits east, south, east, south, east, northeast, north, west, north, east, north, east, north, east, south, east, south, west, north, west, north, west, south, west, north, west, south, east, and south to M-43. M-43 west to Riverview. Riverview north to E. Paterson. E. Paterson to Kalamazoo River. Kalamazoo River north to an imaginary line extending east from W. Dunkley St. to the river. East along imaginary line to the city Limit. City limit north, east, south, east, north to start.





Precinct 10  
**Precinct 11.**

Precinct 11

Start at the corner of E Paterson and the Kalamazoo River. E. Paterson east to Riverview. Riverview south to M-43, M-43 east to city limit. City limit south, east, south, east, south, west, south to Kalamazoo River. Kalamazoo River north to start.



Precinct 11  
**Precinct 12.**

Precinct 12

Start at the corner of Wood and Parkview. Parkview east to Oakland. Oakland south to Edgewood Dr. Edgewood Dr. west to Adams. Adams north to Edgewood Dr. Edgewood west to Madison. Madison north to Springmont. Springmont west to Lowden. Lowden north to Amherst. Amherst west to Wood. Wood north to start.



Precinct 12  
**Precinct 13.**

Precinct 13

Start at the corner of Pitcher and E. Michigan. E. Michigan east to the Kalamazoo River. Kalamazoo River southeast to city limits. City limits south and east to Penn Central railroad. Northwest on railroad to Stockbridge. Stockbridge west to Cameron. Cameron south to Egleston. Egleston west to Portage. Portage south to Reed. Reed east to Conrail Railroad track. Conrail Railroad track north to Lake. Lake east to Portage. Portage north to Walnut. Walnut east to Pitcher. Pitcher north to start.



Precinct 13  
**Precinct 14.**

Precinct 14

Start at the corner city limits and the imaginary extension of Winchell Ave. Follow this line east to Winchell. Winchell east to Rambling. Rambling south to Applelane. Applelane east to Ferdon. Ferdon south to Lorraine. Lorraine east to Chevy Chase. Chevy Chase east to Oakland. Oakland south to Parkview. Parkview west to city limits. City limits north to start.





Precinct 14  
**Precinct 15.**

Precinct 15

Start at the corner of Portage and Egleston. Egleston east to Cameron. Cameron north to Stockbridge. Stockbridge east to Penn Central railroad. Penn Central railroad southeast to city limit. City limit southeast, east, north, east, south, east, south, west, south, west, south to Miller. Miller west to Portage. Portage north to start.



Precinct 15  
**Precinct 16.**

Precinct 16

Start at the corner of Portage and Miller. Miller east to city limits. City limits south to Cork. Cork west to Burke. Burke north to Pomeroy. Pomeroy east to Lovers Ln. Lovers Ln. north to Portage. Portage north to start.



Precinct 16  
**Precinct 17.**

Precinct 17

Start at the corner of Moreland and Cork. Cork east to city limits. City limits south, west, south, west, north around airport to Portage Rd. Portage north to Lakeway. Lakeway east to Moreland. Moreland north to start.



Precinct 17  
**Precinct 18.**

Precinct 18

Start at the corner of Duke and Whites. Whites east to Cork. Cork east to Moreland. Moreland south to Lakeway. Lakeway west to Portage. Portage south to city limits. City limits west, south, west, north, east north, west, north, and west to Burdick. Burdick north to Hutchinson. Hutchinson west to Duke. Duke north to start.





Precinct 18  
**Precinct 19.**

Precinct 19

Start at the corner of Duke St. and Hutchinson. Hutchinson east to Burdick. Burdick south to city limit. City limit west to Duke. Duke north to start.



Precinct 19  
**Precinct 20.**

Precinct 20

Start at the corner of Crosstown Pkwy and Maple St. Maple St. east to Westnedge. Westnedge south to Summit Dr. Summit Dr. east to Crane. Crane south to Parkwood. Parkwood east to S. Rose. S. Rose south to Inkster. Inkster east to S. Burdick. S. Burdick south to Crescent Dr. Crescent Dr. east to Burdick. Burdick south to Cork. Cork west to Whites. Whites Rd. west to Bronson Blvd. Bronson Blvd northeast to Crosstown. Crosstown north to start.



Precinct 20  
**Precinct 21.**

Precinct 21

Start at the corner of the Sheffield Dr. census track and Howard. Howard east to Oakland. Oakland south to Maple. Maple east to Crosstown. Crosstown south to Bronson. Bronson southwest to Whites. Whites west to Oakland. Oakland north to Chevy Chase. Chevy Chase west to Sheffield. Sheffield north to start.



Precinct 21  
**Precinct 22.**

Precinct 22

Start at the corner of city limits and Amtrak railroad track. Amtrak railroad track east to Howard. Howard east to Sheffield census track extension. Sheffield south to Chevy Chase. Chevy Chase west to Lorraine. Lorraine west to Ferdon. Ferdon north to Applelane. Applelane west to Rambling. Rambling north to Winchell. Winchell west to city limits. City limits north to start.





Precinct 22  
**Precinct 23.**

Precinct 23

Start at the corner of S. Park St. and Burr Oak. Burr Oak east to Burdick. Burdick south to Lake St. Lake St. east to Conrail Railroad Track. Conrail railroad track south to Reed St. Reed east to Portage. Portage south to Lovers. Lovers south to Pomeroy. Pomeroy west to Burke. Burke south to Cork. Cork west to Burdick. Burdick north to Crescent. Crescent west to Burdick. Burdick north to Inkster. Inkster west to S. Rose. S. Rose north Parkwood. Parkwood west to Crane. Crane north to Summit Dr. Summit Dr. west to Westnedge. Westnedge north to Park Pl. Park Pl. east to S. Park. S. Park north to start.



Precinct 23  
**Precinct 24.**

Precinct 24

Start at the corner of Oakland and Wheaton. Wheaton east to Westnedge. Westnedge south to Maple St. Maple St. west to Oakland. Oakland north to start.



Precinct 24  
**Precinct 25.**

Precinct 25

Start at the corner of Oakland and Whites. Whites west to Duke. Duke south to city limits. City limits west to Oakland. Oakland north to start.



Precinct 25  
**Precinct 26.**

Precinct 26

Start at the corner of city limits and Parkview. Parkview east to Wood. Wood south to Amherst. Amherst east to Lowden. Lowden south to Springmont. Springmont east to Madison. Madison south to Edgewood. Edgewood east to Adams. Adams south to Edgewood. Edgewood east to Oakland. Oakland south to city limits. City limits west and then north to start.





**Appendix E**

**ECONOMIC DEVELOPMENT CORPORATION**



**Appendix F**

**DOWNTOWN DEVELOPMENT AUTHORITY**



**[HISTORY: Adopted by the City Commission of the City of Kalamazoo 3-1-1982 by Ord. No. 1245.**

**Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Kalamazoo Downtown Development Authority Tax Increment Financing Plan and Development Plan — See Ch. 35, Art. II.**









AN ORDINANCE TO ESTABLISH A DOWNTOWN DEVELOPMENT AUTHORITY IN THE CITY OF KALAMAZOO PURSUANT TO ACT 197, PUBLIC ACTS OF MICHIGAN, 1975; TO PROVIDE FOR ESTABLISHMENT OF A BOARD OF DIRECTORS FOR THE AUTHORITY; TO DEFINE THE BOUNDARIES OF THE DOWNTOWN DEVELOPMENT AUTHORITY; AND TO PROVIDE FOR ALL OTHER MATTERS NECESSARY AND RELATED THERETO.



THE CITY OF KALAMAZOO ORDAINS:



Precinct 26

**§ 1. Title of ordinance.**

§ 1

This ordinance shall be known and may be cited as the "Downtown Development Authority Ordinance."



**§ 2. Definitions.**

The terms used in this ordinance shall have the same meaning as given to them in Act 197 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this ordinance:

ACT 197 — Act No. 197 of the Public Acts of Michigan of 1975, as now in effect or hereinafter amended.<sup>207</sup>

AUTHORITY — The Downtown Development Authority of the City of Kalamazoo created by this ordinance.

BOARD OR BOARD OF DIRECTORS — The board of directors of the authority, the governing body of the authority.

CHIEF EXECUTIVE OFFICER — The Mayor of the City.

CITY — The City of Kalamazoo, Michigan.

COMMISSION OR CITY COMMISSION — The City Commission of the City.

DOWNTOWN DISTRICT — The downtown district designated by this ordinance as now existing or hereafter amended.

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**207.Editor's Note: See MCLA § 125.1651 et seq.**





§ 2

§ 3

**§ 3. Determination of necessity.**

The City Commission of the City hereby determines that it is necessary for the best interests of the City to halt property value deterioration and increase property tax valuation where possible in the business district of the City, to eliminate the causes of that deterioration and to promote economic growth by establishing a downtown development authority pursuant to Act 197.



§ 3

§ 4

**§ 4. Creation of authority.**

There is hereby created pursuant to Act 197 a downtown development authority for the City. The authority shall be a public body corporate and shall be known and exercise its powers under the title of "Downtown Development Authority of the City of Kalamazoo." The authority may adopt a seal, may sue and be sued in any court of this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this ordinance and Act 197. The enumeration of a power in this ordinance or in Act 197 shall not be construed as a limitation upon the general powers of the authority.



§ 4

§ 5

**§ 5. Description of downtown district.**

The downtown district in which the authority shall exercise its powers as provided by Act 197 shall consist of the described territory in the City, subject to such changes as may hereinafter be made pursuant to this ordinance and Act 197, as set forth in Exhibit A, attached hereto and made a part hereof.



§ 5  
§ 6. **Board of directors.** [Amended 4-20-1987 by Ord. No. 1412; 5-15-1989 by Ord. No. 1456; 2-19-1996 by Ord. No. 1610] § 6

The authority shall be under the supervision and control of a board of directors consisting of the chief executive officer of the City and 10 members as provided by Act 197. The members shall be appointed by the chief executive officer, subject to the approval of the City, and shall hold office for the terms provided in Act. 197. Not less than a majority of the members shall be persons having an interest in property located in the downtown district. Not less than one of the members shall be a resident of the downtown district if the downtown district has 100 or more persons residing within it.





§ 6

§ 7

**§ 7. Powers of the authority.**

Except as specifically otherwise provided in this ordinance the authority shall have all powers provided by law subject to the limitations imposed by law and herein.



§ 7  
§ 8.

§ 8

**§ 8. Fiscal year; adoption of budget.**

- (a) The fiscal year of the authority shall begin on January 1 of each year and end on December 31 of the following year or such other fiscal years as may hereafter be adopted by the City.
- (b) The board shall annually prepare a budget and shall submit it to the Commission on the same date that the proposed budget for the City is required by the City Charter to be submitted to the Commission. The board shall not finally adopt a budget for any fiscal year until the budget has been approved by the Commission. The board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.
- (c) The authority shall submit financial reports to the Commission at the same time and on the same basis as departments of the City are required to submit reports. The authority shall be audited annually by independent auditors and copies of the audit report shall be filed with the Commission. **[Amended 7-9-1984 by Ord. No. 1328]**



§ 8

§ 9

**§ 9. Section hearings; severability; repealer.**

Section headings are provided for convenience only and are not intended to be part of this ordinance. If any portion of this ordinance shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.



§ 9

§ 10

**§ 10. Publication, recording and filing.**

This ordinance shall be published once after its adoption in full in the Kalamazoo Gazette, a newspaper of general circulation in the City of Kalamazoo; and the City clerk shall file a certified copy of the ordinance with the Michigan Secretary of State promptly after its adoption.

This ordinance shall be effective from and after 10 days from the date of its adoption.





**Reference Tables**

**Chapter CCT**

**CODE COMPARATIVE TABLES**



§ 10  
**§ CCT-1. Administrative Code.**

§ CCT-1

This table gives the location within this Code of those sections of the Administrative Code of the City, which are included herein. Sections of such Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

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**§ CCT-2. Building and Housing Code.**

This table gives the location within this Code of those sections of the Building and Housing Code of the City, which are included herein. Sections of such Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

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**§ CCT-3. Police and License Code.**

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**§ CCT-4. Public Services Code.**

This table gives the location within this Code of those sections of the Public Services Code of the City, which are included herein. Sections of such Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

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 § CCT-5. **Traffic Code.**

§ CCT-5

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**Chapter SRT**

**STATUTORY REFERENCE TABLES**



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This table shows the location within this Code, either in the text or in the statutory reference tables at the beginning of various chapters, of references to the Michigan Compiled Laws.

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750.411h	§ 18A-2
750.411i	§ 18A-2
750.448 et seq.	Ch. 22
750.493b	Ch. 22
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**Disposition List**  
**Chapter DL**  
**DISPOSITION LIST**



§ SRT-2

§ DL-1

The following is a chronological listing of legislation of the City of Kalamazoo adopted since the last supplement to the Code of Ordinances, originally adopted 6-6-1977 by Ord. No. 1113, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the 2006 republication of the Code was Ordinance No. 1812, adopted 10-2-2006.

**§ DL-1. Disposition of legislation.**

<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1786	7-18-2005	Zoning Map amendment	NCM
1787	7-18-2005	Zoning	App. A
1788	7-18-2005	Administration amendment	Ch. 2
1789	7-18-2005	Fire prevention and protection amendment	Ch. 15
1790	7-18-2005	Soil erosion and sedimentation control	Repealed by Ord. No. 2047
1791	9-6-2005	Offenses and crimes generally amendment	Ch. 22
1792	9-19-2005	Administration amendment	Ch. 2
1793	10-3-2005	Zoning Map amendment	NCM
1794	10-3-2005	Zoning Map amendment	NCM
1795	10-17-1995	Administration amendment	Ch. 2
1796	12-19-2005	Zoning Map amendment	NCM
1797	2-20-2006	Zoning Map amendment	NCM
1798	3-6-2006	Administration amendment	Ch. 2
1799	3-6-2006	Water amendment	Ch. 38
1800	4-3-2006	Zoning Map amendment	NCM
1801	5-1-2006	Administration amendment	Ch. 2
1802	5-15-2006	Administration amendment	Ch. 2
1803	5-15-2006	Administration amendment	Ch. 2
1804	6-19-2006	Buildings and building regulations amendment	Ch. 9
1805	7-31-2006	Zoning Map amendment	NCM
1806	7-31-2006	Zoning Map amendment	NCM
1807	7-31-2006	Streets and other public grounds amendment	Ch. 33
1808	7-31-2006	Zoning Map amendment	NCM
1809	7-31-2006	Zoning amendment	App. A
1810	8-7-2006	Traffic Code amendment	Ch. 36
1811	8-21-2006	Offenses and crimes generally amendment	Ch. 22
1812	10-2-2006	Adoption of Reformatted Code	Prefatory material
1813	10-16-2006	Zoning Map amendment	NCM
1814	10-30-2006	Water funding and refunding bonds	NCM

§ DL-1 Ord. No.	Adoption Date	Subject	Disposition
1815	12-18-2006	Zoning Map amendment	NCM
1816	12-18-2006	Zoning Map amendment	NCM
1817	1-2-2007	Kalamazoo Downtown Development Authority tax increment financing plan and development plan amendment	Repealed by Ord. No. 1987
1818	1-16-2007	Zoning Map amendment	NCM
1819	1-16-2007	Pawnbrokers; secondhand, junk and recycling dealers amendment	Ch. 24, Art. I
1820	2-19-2007	Zoning Map amendment	NCM
1821	3-5-2007	Garbage and trash amendment	Ch. 15A, Arts. I and II
1822	3-19-2007	Zoning amendment	App. A
1823	4-2-2007	Zoning Map amendment	NCM
1824	4-30-2007	Kalamazoo Historic Preservation Commission amendment; Historic districts amendment	Ch. 2, Art. V; Ch. 16
1825	5-21-2007	Zoning amendment	App. A
1826	5-21-2007	Zoning amendment	App. A
1827	5-21-2007	Water supply system revenue bonds	NCM
1828	6-4-2007	Animals and fowl amendment	Ch. 7
1829	6-18-2007	Traffic Code amendment	Ch. 36
1830	7-2-2007	Water amendment	Ch. 38
1831	7-2-2007	Wastewater discharge regulations and enforcement procedures amendment	Ch. 28
1832	7-16-2007	Traffic Code amendment	Ch. 36
1833	12-3-2007	Zoning Map amendment	NCM
1834	12-3-2007	Zoning amendment	App. A
1835	12-17-2007	Administration amendment (employee retirement system)	Ch. 2
1836	2-4-2008	Wastewater discharge regulations and enforcement procedures amendment	Ch. 28
1837	4-21-2008	Zoning Map amendment	NCM
1838	4-21-2008	Administration amendment	Ch. 2
1839	5-5-2008	Zoning Map amendment	NCM
1840	5-5-2008	Offenses and crimes generally amendment	Ch. 22
1841	6-16-2008	Traffic Code amendment	Ch. 36
1842	6-30-2008	Taxation amendment	Ch. 35
1843	7-21-2008	Zoning Map amendment	NCM
1844	7-21-2008	Kalamazoo Transportation Center amendment	Ch. 18B

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1845	8-18-2008	Zoning Map amendment	NCM
1846	8-18-2008	Stormwater system amendment	Ch. 29
1847	9-15-2008	Housing Code amendment	Ch. 17
1848	9-29-2008	Refuse bins amendment	Ch. 15A, Art. II
1849	11-3-2008	Zoning Map amendment	NCM
1850	12-1-2008	Human services and relations: discrimination prohibited	Repealed by Res. No. 09-01, adopted 1-12-2009
1851	2-2-2009	Water amendment	Ch. 38
1852	5-18-2009	Housing Code amendment	Ch. 17
1853	6-15-2009	Zoning Map amendment	NCM
1854	6-29-2009	Zoning amendment	App. A
1855	6-29-2009	Employee retirement system amendment	Ch. 2, Art. X
1856	6-29-2009	Discrimination prohibited amendment	Superseded by Ord. No. 2013
1857	7-20-2009	Taxation amendment	Ch. 35, Art. I
1858	8-3-2009	Outdoor furnaces	Ch. 15, Art. II
1859	10-19-2009	Water amendment	Ch. 38
1860	11-2-2009	Offenses and crimes generally amendment	Ch. 22
1861	11-2-2009	Offenses and crimes generally amendment	Ch. 22
1862	11-16-2009	Bond	NCM
1863	11-16-2009	Bond	NCM
1864	1-19-2010	Wastewater discharge regulations and enforcement procedures amendment	Ch. 28
1865	1-19-2009	Water amendment	Ch. 38
1866	2-1-2010	Stormwater system amendment	Ch. 29
1867	5-17-2010	Parks and recreation amendment; streets and other public grounds amendment	Repealed by Ord. No. 1964; 33
1868	6-21-2010	Community Relations Advisory Board amendment	Superseded by Ord. No. 2013
1869	7-19-2010	Historic districts amendment	Ch. 16
1870	7-19-2010	Historic districts amendment	Ch. 16
1871	9-20-2010	Zoning Map amendment	NCM
1872	9-20-2010	Zoning amendment	App. A
1873	9-20-2010	Zoning amendment	App. A
1874	10-4-2010	Employee retirement system amendment	Ch. 2, Art. X
	12-6-2010	Municipal Golf Association Constitution amendment	App. C

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1875	12-6-2010	Wastewater system revenue refunding bonds	NCM	
1876	1-3-2011	Zoning amendment	App. A	
1877	1-3-2011	Traffic Code amendment	Ch. 36	
1878	1-31-2011	Zoning amendment	App. A	
1879	2-21-2011	Water amendment	Ch. 38	
1880	2-21-2011	Wastewater discharge regulations and enforcement procedures amendment	Ch. 28	
1881	4-18-2011	Fire prevention and protection: Fire Prevention Code amendment	Ch. 15, Art. III	
1882	5-16-2011	Zoning amendment	App. A	
1883	6-20-2011	Administration: Planning Commission repealer; zoning amendment	Ch. 2, Art. IV; App. A	
1884	6-20-2011	Zoning amendment	App. A	
1885	6-20-2011	Zoning Map amendment	NCM	
1886	10-31-2011	Administration: employee retirement system amendment	Ch. 2, Art. X	
1887	1-3-2012	Zoning amendment	App. A	
1888	1-3-2012	Zoning amendment	App. A	
1889	2-6-2012	Water amendment	Ch. 38	
1890	2-6-2012	Wastewater discharge regulations and enforcement procedures	Ch. 28	
1891	3-5-2012	Water supply system revenue refunding bonds	NCM	
1892	3-5-2012	Wastewater system revenue bonds	NCM	
1893	3-19-2012	Traffic Code amendment	Ch. 36	
1894	4-2-2012	Zoning Map amendment	NCM	
1895	5-21-2012	Zoning Map amendment	NCM	
1896	6-18-2012	Zoning Map amendment	NCM	
1897	7-16-2012	Zoning amendment	App. A	
1898	7-16-2012	Offenses and crimes generally amendment	Ch. 22	
1899	7-16-2012	Traffic Code amendment	Ch. 36	
1900	8-20-2012	Zoning amendment	App. A	
1901	8-20-2012	Mobile food vehicle vendors	Ch. 25, Art. IV	
1902	9-4-2012	Fireworks; Fire Prevention Code amendment	Ch. 15, Art. IIA; Ch. 15, Art. III	
1903	10-1-2012	Zoning Map amendment	NCM	
1904	10-1-2012	Offenses and crimes generally amendment	Ch. 22	



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1905	11-19-2012	Administration: employee retirement system amendment	Ch. 2, Art. X	
1906	2-4-2013	Zoning Map amendment	NCM	
1907	3-18-2013	Offenses and crimes generally amendment	Ch. 22	
1908	4-15-2013	Traffic Code amendment	Ch. 36	
1909	7-1-2013	Fire prevention and protection: fireworks amendment	Ch. 15, Art. IIA	
1910	7-15-2013	Zoning Map amendment	NCM	
1911	7-15-2013	Traffic Code amendment	Ch. 36	
1912	8-19-2013	Zoning amendment	App. A	
1913	10-21-2013	Zoning Map amendment	NCM	
1914	1-13-2014	Water amendment	Ch. 38	
1915	1-13-2014	Wreckers: in general amendment	Ch. 40, Art. I	
1916	2-3-2014	Zoning Map amendment	NCM	
1917	2-17-2014	Streets and other public grounds amendment	Ch. 33	
1918	4-21-2014	Bond	NCM	
1919	4-21-2014	Bond	NCM	
1920	5-5-2014	Water amendment	Ch. 38	
1921	5-5-2014	Wastewater discharge regulations and enforcement procedures amendment	Ch. 28	
1922	6-2-2014	Zoning amendment	App. A	
1923	7-21-2014	Taxation amendment	Ch. 35, Art. I	
1924	7-21-2014	Zoning Map amendment	NCM	
1925	8-4-2014	Zoning Map amendment	NCM	
1926	9-2-2014	Zoning Map amendment	NCM	
1927	11-3-2014	Administration: employee retirement system amendment	Ch. 2, Art. X	
1928	11-3-2014	Offenses and crimes generally amendment	Ch. 22	
1929	12-1-2014	Housing Code amendment	Ch. 17	
1930	12-1-2014	Wrecking or moving buildings amendment; dangerous buildings amendment	Ch. 9, Art. VI; Ch. 9, Art. VII	
1931	1-20-2015	Wastewater discharge regulations and enforcement procedures amendment	Ch. 28	
1932	2-16-2015	Zoning amendment	App. A	
1933	3-2-2015	Bond	NCM	
1934	8-17-2015	General provisions amendment	Ch. 1	
1935	9-21-2015	Taxation amendment	Ch. 35, Art. I	

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1936	12-7-2015	Vehicles for hire amendment	Ch. 37
1937	4-4-2016	Zoning Map amendment	NCM
1938	5-2-2016	Parks and recreation: Friends of Recreation Board repealer	Ch. 23, Art. II
1939	5-2-2016	Traffic Code amendment	Ch. 36
1940	5-16-2016	Zoning Map amendment	NCM
1941	7-5-2016	Zoning Map amendment	NCM
1942	9-19-2016	Traffic Code amendment	Ch. 36
1943	12-5-2016	Zoning Map amendment	NCM
1944	12-19-2016	Water: service charges amendment	Ch. 38, Art. II
1945	1-17-2017	Zoning Map amendment	NCM
1946	2-20-2017	Wastewater discharge, regulations and enforcement procedures amendment	Ch. 28
1947	3-6-2017	Bond	NCM
1948	4-3-2017	Bond	NCM
1949	8-7-2017	Zoning Map Amendment	NCM
1950	9-18-2017	Zoning Map Amendment	NCM
1951	12-18-2017	Zoning Map Amendment	NCM
1952	12-18-2017	Administration: Employee Retirement System Amendment	Ch. 2, Art. X
1953	12-18-2017	Offenses and Crimes Generally Amendment	Ch. 22
1954	12-18-2017	Medical Marijuana Facilities	Superseded by Ord. No. 1962
1955	1-16-2018	Water: Service Charges Amendment	Ch. 38, Art. II
1956	1-16-2018	Wastewater Discharge Regulations and Enforcement Procedures Amendment	Ch. 28
1957	4-2-2018	Zoning Amendment	App. A
1958	4-2-2018	Zoning Amendment	App. A
1959	4-2-2018	Administration: Employee Retirement System Amendment	Ch. 2, Art. X
1960	4-2-2018	Bond	NCM
1961	4-2-2018	Bond	NCM
1962	4-2-2018	Medical Marijuana Facilities: General Provisions; Licensing of Medical Marijuana Facilities; Specific Marijuana Facility Requirements; General Requirements; Temporary Operation of Medical Marijuana Facilities	Superseded by Ord. No. 2008

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1963	5-7-2018	Administration: Employee Retirement System Amendment	Ch. 2, Art. X	
1964	5-7-2018	Administration: Parks and Recreation Advisory Board; Parks and Recreation Repealer; Streets and Other Public Grounds: In General Amendment; Parks and Recreation; Construction and Repair of Sidewalks, Crosswalks and Driveways Amendment; Use for Utility Poles, Wires and Conduits Amendment; Use by Gas Utilities Amendment; Permit for Installation of Pipe Lines for Oil, Water. Etc., Amendment; Revocable Franchises for Retail Wheel Electric Providers Amendment	Ch. 2, Art. IV; Ch. 23, reference only; Ch. 33, Art. I; Ch. 33, Art. II; Ch. 33, Art. III; Ch. 33, Art. IV; Ch. 33, Art. V; Ch. 33, Art. VI; Ch. 33, Art. VII	
1965	5-21-2018	Zoning Map Amendment	NCM	
1966	5-21-2018	Amusements Repealer	Ch. 6, reference only	
1967	6-4-2018	Elections Amendment	Ch. 13	
1968	7-16-2018	Zoning Map Amendment	NCM	
1969	8-6-2018	Zoning Amendment	App. A	
1970	9-4-2018	Zoning Map Amendment	NCM	
1971	9-4-2018	Zoning Map Amendment	NCM	
1972	9-17-2018	Taxation: In General Amendment	Ch. 35, Art. I	
1973	11-19-2018	Zoning; Zoning Ordinance Amendment	Repealed by Ord. No. 2018; App. A	
1974	11-19-2018	Zoning Map Amendment	NCM	
1975	12-3-2018	Administration: Water System Advisory Council	Ch. 2, Art. VB	
1976	1-7-2019	Traffic Code: Bicycles Amendment	Ch. 36, Art. VII	
1977	1-7-2019	Traffic Code: Pedestrians Amendment	Ch. 36, Art. X	
1978	1-29-2019	Zoning Ordinance Amendment	App. A	
1979	2-4-2019	Water Amendment	Ch. 38	
1980	2-4-2019	Wastewater Discharge Regulations and Enforcement Procedures Amendment	Ch. 28	
1981	4-15-2019	Zoning Map Amendment	NCM	
1982	4-15-2019	Buildings and Building Regulations: Abandoned Residential Structures Repealer; Nuisances	Ch. 9, Art. VIII, reference only; Ch. 21	
1983	5-6-2019	Fire Prevention and Protection: Fireworks Amendment	Ch. 15, Art. IIA	
1984	5-20-2019	Zoning Amendment	Repealed by Ord. No. 2018	

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1985	5-20-2019	Zoning Map Amendment	NCM
1986	5-20-2019	Administration Amendment	Ch. 2
1987	5-20-2019	Taxation: Kalamazoo Downtown Development Authority Tax Increment Financing Plan and Development Plan Repealer	Ch. 35, Art. II (reference only)
1988	5-20-2019	Bond	NCM
1989	5-20-2019	Bond	NCM
1990	6-3-2019	Offenses and Crimes Generally Amendment	Ch. 22
1991	6-3-2019	Offenses and Crimes Generally Amendment	Ch. 22
1992	6-3-2019	Offenses and Crimes Generally Amendment	Ch. 22
1993	7-1-2019	Bond	NCM
1994	7-15-2019	Medical Marihuana Facilities Amendment	Superseded by Ord. No. 2008

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1995	8-19-2019	Fire Prevention and Protection Amendment	Ch. 15	26.1
1996	9-16-2019	Zoning Map Amendment	NCM	26.1
1997	9-16-2019	Zoning Ordinance Amendment	App. A	26.1
1998	9-16-2019	Zoning Ordinance Amendment	App. A	26.1
1999	9-16-2019	Buildings and Building Regulations: In General Amendment; Building Code Amendment; Plumbing Code Amendment; Electrical Code Amendment; Mechanical Code Amendment; Dangerous Buildings Amendment	Ch. 9, Arts. I, II, III, IV, V, and VII	26.1
2000	10-7-2019	Temporary Regulations for Adult Use Marihuana Establishments	NCM	27
2001	1-21-2020	Peddlers; Solicitors; Transient Merchants and Photographers: Mobile Food Businesses	Ch. 25, Art. IV	26.2
2002	2-17-2020	Water Amendment	Ch. 38	26.2
2003	2-17-2020	Wastewater Discharge Regulations and Enforcement Procedures Amendment	Ch. 28	26.2
2004	5-4-2020	Zoning Amendment	Repealed by Ord. No. 2018	26.2

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2005	5-4-2020	Bond	NCM	26.2	
2006	5-4-2020	Bond	NCM	26.2	
2007	5-18-2020	Zoning Amendment; Zoning Ordinance Amendment	Repealed by Ord. No. 2018; App. A	26.2	
2008	5-18-2020	Marihuana Commercial Businesses	Repealed by Ord. No. 2052	26.2	
2009	7-6-2020	Temporary Suspension of Off-Street Parking Requirements	NCM	26.2	
2010	7-6-2020	Bond	NCM	26.2	
2011	8-3-2020	Alcoholic Beverages Amendment	Ch. 4A	26.2	
2012	9-8-2020	Zoning Map Amendment	NCM	26.2	
2013	9-8-2020	Nondiscrimination	Ch. 18	26.2	
2014	9-8-2020	Fair Housing	Ch. 18A	26.2	
2015	9-8-2020	Administration: Employee Retirement System Amendment	Ch. 2, Art. X	26.2	
2016	10-5-2020	Administration: Employee Retirement System Amendment	Ch. 2, Art. X	26.2	
2017	10-26-2020	Suspension of Off Street Parking	NCM	27	
2018	11-2-2020	Zoning	Ch. 50	27	
2019	11-2-2020	Zoning Map Amendment	NCM	27	
2020	12-21-2020	Offenses and Crimes Generally Amendment; Streets and Other Public Grounds Amendment	Ch. 22; Ch. 33	27.1	
2021	1-4-2021	Zoning Map Amendment	NCM	27.1	
2022	2-15-2021	Zoning Map Amendment	NCM	27.1	
2023	2-15-2021	Water Amendment	Ch. 38	27.1	
2024	2-15-2021	Wastewater Discharge Regulations and Enforcement Procedures Amendment	Ch. 28	27.1	
2025	3-15-2021	Temporary Suspension of Off-Street Parking Requirements	NCM	27.1	
2026	3-15-2021	Emergency Management Amendment	Ch. 12	27.1	
2027	4-5-2021	Bond	NCM	28	
2028	4-5-2021	Bond	NCM	28	

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2029	4-19-2021	Zoning Map Amendment	NCM	28
2030	4-19-2021	Zoning Map Amendment	NCM	28
2031	6-7-2021	Pawnbrokers; Secondhand, Junk and Recycling Dealers Amendment	Ch. 24	28
2032	7-6-2021	Zoning Map Amendment	NCM	28
2033	7-6-2021	Zoning Map Amendment	NCM	28
2034	7-6-2021	Historic Districts Amendment	Ch. 16	28
2035	7-19-2021	Offenses and Crimes Generally Amendment; Traffic Code Amendment	Ch. 22; Ch. 36	28
2036	7-19-2021	Fire Prevention and Protection Amendment	Ch. 15	28
2037	8-16-2021	Zoning Amendment	Ch. 50	28
2038	8-16-2021	Zoning Map Amendment	NCM	28
2039	9-20-2021	Zoning Map Amendment	NCM	28.1
2040	12-6-2021	Buildings and Building Regulations: Emergency Housing	Ch. 9, Art. VIII	28.1
2041	12-20-2021	Zoning Map Amendment	NCM	28.1
2042	12-20-2021	Administration: Kalamazoo Historic Preservation Commission Amendment	Ch. 2, Art. V	28.1
2043	2-21-2022	Water: Service Charges Amendment	Ch. 38, Art. II	29
2044	2-21-2022	Wastewater Discharge Regulations and Enforcement Procedures Amendment	Ch. 28	29
2045	2-21-2022	Bond	NCM	29
2046	2-21-2022	Bond	NCM	29
2047	3-7-2022	Soil Erosion and Sedimentation Control Amendment	Ch. 30	29
2048	4-18-2022	Bond	NCM	29
2049	6-6-2022	Zoning Amendment; Zoning Ordinance Amendment	Ch. 50; Appx. A	29
2050	6-21-2022	Streets and Other Public Grounds: Parks and Recreation Amendment	Ch. 33, Art. II	30.1

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2051	7-18-2022	Offenses and Crimes Generally Amendment	Ch. 22	30.1
2052	8-1-2022	Marihuana Commercial Businesses	Ch. 20B	30.1
2053	9-19-2022	Water: Service Charges Amendment	Ch. 38, Art. II	30.1
2054	9-19-2022	Wastewater Discharge Regulations and Enforcement Procedures Amendment	Ch. 28	30.1
2055	10-17-2022	Zoning Map Amendment; Institutional Campus Master Plan Agreement	NCM	30.1
2056	10-17-2022	Zoning Ordinance Amendment	Apx. A	30.1
2057	10-17-2022	Wellhead Protection	Ch. 39	30.1
2058	12-19-2022	Fire Prevention and Protection: Fire Prevention Code Amendment	Ch. 15, Art. III	31
2059	1-3-2023	Administration: Employee Retirement System Amendment	Ch. 2, Art. X	31
2060	1-3-2023	Administration: Employee Retirement System Amendment	Ch. 2, Art. X	31

