City of White Cloud, Michigan Code of Ordinances

Welcome to the City of White Cloud, Michigan Code of Ordinances

This document is current through **Ordinance 2022-02, passed 9/6/2022.**

CITY OF WHITE CLOUD, MICHIGAN
CITY OFFICIALS

Mayor

Brian J. Miller

City Council
Lori Shears– Mayor Pro Tem
Candice Dault
Herm Becker
Jeffery Murchison
Damon Anuci
Darren LaClair

City Manager

April Storms

City Clerk

Kelli Arnold

City Treasurer

April Storms

Chief of Police

Dan Evans

Superintendent of Public Works

Don Barnhard

White Cloud, Michigan
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PREAMBLE

We, the People of the City of White Cloud, Newaygo County, Michigan formerly known as the Village of White Cloud, by virtue of the authority of the Constitution of the State of Michigan and Public Act 279 of 1909 of the State of Michigan, as amended, do hereby ordain and establish this Charter for the City of White Cloud.
Editor's note: *Public Act 279 of 1909 can be found at M.C.L.A. §§ 117.1 et seq.*

CHAPTER 1. NAME AND BOUNDARIES

SECTION 1.1 NAME AND BOUNDARIES.

The name of this organized city is "City of White Cloud". It is a body corporate, and embraces the following described territory in Newaygo County, State of Michigan, together with such territory as may from time to time be attached thereto and less such territory as may from time to time be detached there from in accordance with law:

The Southeast Quarter of Section 31;
The South Half of Section 32; and
The Southwest Quarter of Section 33;
All in Township 14 North, Range 12 West;
The Northeast Quarter of Section 6;
The North Half of Section 5; and
The Northwest Quarter of Section 4, all in Township 13 North, Range 12 West.

SECTION 1.2

The City of White Cloud shall consist of one (1) ward.

CHAPTER 2. GENERAL MUNICIPAL POWERS

SECTION 2.1 POWERS OF THE CITY.

Unless otherwise provided or limited in this charter, the City of White Cloud and its officers shall be vested with any and all powers, privileges, and immunities, expressed or implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the Constitution and laws of the State of Michigan, and of the United States of America, including all the powers, privileges and immunities which cities are permitted to, or may, provide in their charters by Act No. 279 of the Public Acts of 1909, as amended as fully and completely as though those powers, privileges and immunities were specifically enumerated in and provided for in this charter, and in no case shall any enumeration of any particular powers, privileges, or immunities in this charter be held to be exclusive, it being the intent of the charter commission, in framing this charter, and of the people of the City, in adopting it, to include all such powers, privileges, and immunities within the scope of the powers granted to the City of White Cloud by the provisions of this charter. The city and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated or not; do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances, and resolutions relating to its municipal concerns, subject to the constitution and general laws of the state and the provisions of this charter.
Editor's note: *Public Act 279 of 1909 can be found at M.C.L.A. §§ 117.1 et seq.*

SECTION 2.2 FURTHER DEFINITION OF POWERS.

In addition to the powers possessed by the city under the Constitution and statutes of the State of Michigan, and those set forth throughout this charter, the city shall have power with respect to and may, by ordinance and other lawful acts of its officers, provide for the following, but this list shall not be exclusive:

(a) The acquisition by purchase, gift, condemnation, lease, construction, or in any manner permitted by statute, of private property of every type and nature for public use, which property may be located within or without the County of Newaygo and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the city, either proprietary or otherwise;

(b) The maintenance, development, operation, leasing and disposal of city property subject to any restrictions placed thereon by statute or this charter;

(c) Refunding money advanced or paid on special assessments for water main extensions; for borrowing money for such refunding, and for issuing bonds therefore, at an interest rate not to exceed six per cent;

(d) The installation and connection of conduits for the service of municipally owned and operated electric lighting plants;

(e) The purchase or condemnation of the franchises and of the property used in the operation of companies or individuals engaged in the cemetery, hospital, almshouse, electric light, gas, heat, water and power business;

(f) The use, regulation, improvement, and control of the surface of its streets, alleys, public ways and other public places and of the, space above and beneath them, whether such be located within or without the limits of the city;

(g) The use, by others than the owner, of property located in streets, alleys and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;

(h) A plan of streets and alleys within and for a distance of not more than three miles beyond the

municipal limits;

(i) The use, control, and regulation of streams, waters and water courses within its boundaries, subject to any limitations imposed by statute;

(j) The securing by condemnation, by agreement or purchase, or by any other means, an easement in property abutting or adjacent to any navigable stream, for the purpose of securing the privilege and right to construct, own and maintain along or adjacent to any navigable stream an elevated structure of one or more levels for use as a vehicular or pedestrian passageway, or for any other municipal purpose;

(k) The acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation, or otherwise, the land necessary therefore;

(l) The acquiring, constructing, establishment, operation, extension and maintenance of facilities for the docking of water craft, hydroplanes and seaplanes, within its corporate limits, including the fixing and collection of charges for use thereof, and for such purpose or purposes, to acquire by gift, purchase, condemnation, or otherwise, the land necessary therefore;

(m) Regulating, restricting, and limiting the number and locations of oil and gasoline stations;

(n) Establishing of districts or zones within which the use of land and structures, the height, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings, and the density of population may be regulated by ordinance in accordance with statutory provisions governing zoning;

(o) Regulating of trades, occupations and amusements within the city, not inconsistent with state and federal laws, and for the prohibition of such trades, occupations, and amusements as are detrimental to the health, morals or welfare of its inhabitants;

(p) Licensing, regulating, restricting and limiting the number and locations of advertising signs or displays and billboards within the city;

(q) Preventing injury or annoyance to the inhabitants of the city from anything which is dangerous, offensive, or unhealthful, and to prevent and abate nuisances and punish those occasioning them or neglecting or refusing to abate, discontinue, or remove the same;

(r) Prescribing the terms and conditions upon which licenses may be granted, suspended or revoked; requiring payment of reasonable sums for licenses; and requiring the furnishing of a bond to the city for the faithful observance of the conditions under which licenses are granted;

(s) Regulating all airports located within its boundaries, and, for the purpose of promoting and preserving the public peace, safety, and welfare, controlling and regulating of the use of the air above the city by aircraft of all types;

(t) Prohibiting or regulating the use, occupancy, sanitation and parking of house trailers within the city, and the right of the city to so regulate any house trailer shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to, the ground by means of any temporary or permanent foundation, or in any manner whatsoever;

(u) Requiring an owner of real property within the city to construct and maintain sidewalks abutting upon such property, and if the owner fails to comply with such requirements or if the owner is unknown, to construct and maintain such sidewalks and assess the cost thereof against the abutting property. Driveways, sidewalks (and bicycle paths if applicable) shall be required in the course of new construction or development and constructed in conformance with applicable city policies and ordinances. *(Amended 10/21/2020)*

(v) Requiring an owner of real property within the city to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants of the city, within a reasonable time after the Council notifies that such hazard or nuisance exists, and if the owner fails to comply with such requirements, or if the owner is unknown, to abate such hazard or nuisance and assess the cost thereof against such property.

SECTION 2.3 OUTSIDE FIRE PROTECTION.

In exercise of the powers contained in Section 2.1 herein, the Council shall have the right to contract with persons, firms, corporations, or governing bodies to furnish fire protection to property outside the corporate limits of the city for a fair consideration, if the Council shall find that the financial interests of the city are advanced by obtaining payments therefore; and that the prosperity of the municipality and its inhabitants are advanced through preventing a conflagration which might spread within the city limits or through protecting from fire industrial or commercial properties which employ residents of the city.

SECTION 2.4 INTERGOVERNMENTAL CONTRACTS.

The city may join with any governmental unit or agency, or with any number or combination thereof, by contract or otherwise as may be permitted by law to perform jointly, or by one or more, for or on behalf of the other or others, any power or duty which is permitted to be so performed by law or which is possessed or imposed upon each such governmental unity or agency.

CHAPTER 3. GOVERNMENTAL ORGANIZATION

SECTION 3.1 CITY GOVERNING BODY.

All legislative or policy forming powers of the city shall be vested in, exercised, and determined by a Council of seven (7) members, including a Mayor, who shall be designated and known as Councilmen, in all cases where the word "Council" is used in this charter, the same shall mean and shall be synonymous with the terms "commission," "common council," "board of aldermen," "governing body," or "legislative body," or any other synonymous term, as the same may be used in any state or Federal law referring to legislative or governing bodies of cities.

SECTION 3.2 TERMS OF OFFICE.

At each regular city election there shall be elected from the city at large a Mayor and three (3) Councilmen. The person elected to the office of Mayor shall hold office for two (2) years and each of the councilmen so elected shall hold office for four (4) years. The terms of office of the Mayor and each Councilman shall commence on and date from the Monday next following the date of the regular city election at which they are elected.

SECTION 3.3 QUALIFICATIONS OF COUNCILMEN.

Members of the Council shall meet the eligibility requirements contained in Section 5.1 and the Council shall be sole judge of the election and qualifications of its own members.

SECTION 3.4 COMPENSATIONS OF COUNCILMEN.

The Councilmen shall each receive as their compensation for any services rendered the sum of $3 for being in attendance at each regular or special meeting (not exceeding eighteen meetings in any one year) of the Council.

Further, said Councilmen shall upon authorization of the Council, be allowed reasonable expenses, when actually incurred on behalf of the city.

SECTION 3.5 FUNCTIONAL DUTIES OF THE MAYOR.

(a) Insofar as required by law, and for all ceremonial purposes, the Mayor shall be recognized as the executive head of the city. He shall have an equal voice and vote in the proceedings of the Council, but shall have no veto power. He shall be the presiding officer of the Council.

(b) He shall be a conservator of the peace, and may exercise within the city the powers conferred upon sheriffs to suppress disorder, and shall have the power to command the assistance of all able-bodied citizens to aid in the enforcement of the ordinances of the city, and to suppress riot and disorderly conduct.

(c) He shall authenticate by his signature such instruments as the Council, this charter, or the laws of the State of Michigan or the United States shall require.

SECTION 3.6 ADMINISTRATIVE SERVICE.

There shall be, within the administrative service of the city, a Clerk, Treasurer, Assessor, Attorney, Health Officer, Chief of Police, Fire Chief, Superintendent of Public Works, Member of Cemetery Board, and such additional administrative officers as may be created by ordinance or resolution. The Council may combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the city.

Except as hereinafter provided, all administrative officers of the city shall be appointed by the Council for

an indefinite period, shall serve at the pleasure of the Council, and shall have their compensation fixed by the Council.

Except as may be otherwise provided by statute, or this charter, the Council shall establish by ordinance or resolution such departments of the city as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities and responsibilities of the officers of each department.

All personnel employed by the city who are not elected officers of the city or declared to be administrative officers by, or under the authority of, this section shall be deemed to be employees of the city. The head of each department shall have the power to hire and discharge the employees of such department without confirmation by the Council. Any employee who has been discharged may within 10 days thereafter petition the Council to hear the facts regarding such discharge, and in any such case the Council may, in its sole discretion, hold a hearing and inquire into such facts and may make such recommendation in the matter as it considers proper.

The Council may by ordinance or resolution create the office of City Manager and specify the duties, authorities and responsibilities of such office. In the event such office is created the Council may provide that any administrative officer or department of the city except the Attorney shall be placed under the administrative direction of such Manager, and in such event the Manager shall have the power to appoint, subject to confirmation by the Council, such administrative officers of the city as are placed under his administrative direction and shall have the power to discharge such administrative officers without confirmation by the Council. Any administrative officer who has been discharged may within 10 days thereafter petition the Council to hear the facts regarding such discharge, and in any such case the Council may, in its sole discretion, hold a hearing and inquire into such facts and may make such recommendation in the matter as it considers proper.

SECTION 3.7 SELECTION OF MAYOR PRO TEM.

The Council shall at its first regular meeting following each regular biennial city election, select one (1) of its members to serve as Mayor Pro Tem. The Mayor Pro Tem shall perform the duties of the Mayor when, on account of absence from the city, disability, or otherwise, the Mayor is temporarily unable to perform the duties of his office, and in case of vacancy in the office of Mayor, until such vacancy is filled by the Council. The Mayor Pro Tem shall preside over the meetings of the Council at the call of the Mayor. In the event of a vacancy occurring in the office of Mayor or Mayor Pro Tem, the Council shall appoint one of its elected members to fill such vacancy.

SECTION 3.8 DUTIES OF ADMINISTRATIVE OFFICERS.

All appointive officers of the city shall perform such duties as are provided for such officers by state law, this charter, the city ordinances, and the administrative directives of the Council. The Clerk shall be the chief accountant of the city and shall maintain a system of accounts which shall conform to such uniform system as may be required by state law. All such administrative officers shall be responsible to the Council in and for the performances of the duties of their several offices. The city Treasurer shall have such powers and duties and prerogatives with regard to the collection and custody of state, county, school district, and city taxes and moneys as are conferred by law upon township treasurers in connection with state, county, township, and school district taxes upon real and personal property. The city Assessor shall have all powers vested in, and shall be charged with all the duties imposed upon, assessing officers by general laws of the state. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by the general laws of the state.

SECTION 3.9 CITY OFFICERS AND EMPLOYEE BENEFITS.

The Council may provide, by ordinance or resolution, for a merit system of personnel management for employees in the service of the city, for the pensioning of its appointive officer and employees and recognized standard plan of group life, hospital, health, or accident insurance.

SECTION 3.10 JUSTICE OF THE PEACE.

The powers and duties of the judicial division of the city government shall be vested in the Justice of the Peace. Said Justice of the Peace shall hold office for a term of four (4) years from the Fourth (4th) of July next following the city election at which he was elected. Said Justice, of the Peace shall be elected at each regular city election held in the years following even numbered years which are divisible by four (4). The bond of the Justice of Peace shall be that required of Justices of the Peace in townships.

The Justice of the Peace shall possess the same qualifications as are prescribed in this charter for elective officials.

Except as otherwise provided in this charter, said Justice of The Peace shall have and exercise the same jurisdiction and powers in all civil and criminal matters, causes, suits, and proceedings, and shall perform the same duties in all respects, so far as occasion may require, and shall be conferred upon or required of Justices of the Peace under the general laws of the state.

Such Justices of the Peace shall also have;

(a) Authority to hear, try and determine all suits and prosecutions for the recovery and enforcing of fines, penalties, and forfeitures imposed by this charter, and the ordinances of the City, and to punish offenders for the violation of such charter and ordinances, as in such charter and ordinances, is prescribed and directed;

(b) Concurrent jurisdiction to the amount of five hundred dollars ($500) in all civil matters ex contractu and ex delicto, with such exceptions and restrictions as are or may be provided by state law;

(c) The same power and authority as the circuit courts of the state possess to set aside, upon legal cause shown therefore, the verdict or judgment in any civil cause, and grant a new trial therein, whenever a motion in writing is made and filed with the Justice within five (5) days after the rendition of the verdict of judgment in said case, which motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by an affidavit or affidavits setting forth and the facts relied upon and filed at the time of filing of said motion, and a notice of the hearing of such motion with a copy of the motion and affidavits filed as aforesaid, shall be served upon the adverse party or his attorney at least (2) days before the hearing thereof; such motion shall be determined within (2) days after the same shall have been heard and submitted and such motion shall be submitted and heard within one week after the same shall have been filed; the time for taking all appeal from judgment in case motion be not granted shall begin to run from the time when such motion shall be overruled; in no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of levy under execution pending such motion, no sale of property so levied on shall be advertised or made until the final determination of such motion;

(d) Such additional powers and authorities as may be conferred upon city justices of the peace by state law, it being the intent of this section that the Justice of the Peace of the City of White Cloud shall have and exercise all powers and authority which such justices in cities may now or hereafter be permitted to exercise under state law, under this charter, or ordinances of the city.

The only compensation of such Justice of the Peace shall be the usual fees of that office, as provided by the general laws of the state and the ordinances of the city. The Justice of the Peace shall make an itemized monthly report to the Council of all the fees collected in all proceedings before his court; and shall pay into the city Treasurer at the time of filing such report all moneys belonging to the city which shall have been received for or on account of violations of any provisions of this charter or the ordinances of the city during the period covered by such report. Any Justice failing to make such report within sixty (60) days following the end of the month covered in such report shall forfeit his office, and the Council shall appoint a Justice to fill the vacancy until the next regular city election.

The Council may provide, by ordinance, the times that court shall be in session.

SECTION 3.11 EXPENSES OF PROSECUTION OF STATE LAW.

All fines recovered for the violations of the penal laws of the state, when collected and paid in to the city Treasurer, shall be disposed of as provided by law; the expenses of prosecution before the Justices of the Peace of the city for violations of penal laws of the state, and in punishing the offenders, shall be paid by the County of Newaygo.

SECTION 3.12 BOND.

Each Justice of the Peace in addition to any other security required by law to be given for the performance of his official duties, shall, before entering upon the duties of his office, give a bond to the city, in a penalty of one thousand dollars, conditioned for the faithful performance of the duties of Justice of the Peace within and for the city, and the cost thereof shall be paid by the City.

SECTION 3.13 CONSTABLES.

The Council shall appoint one or more police officers of the city as constables. Such constables shall have like powers and authorities in matters of civil and criminal nature, and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. They shall have power also to serve all processes issued for breaches of ordinances of the city. The bond of the constables shall be that required of constables in townships which bonds shall be paid by the city. The statutory fees received by such constables shall be paid into the city treasury.

SECTION 3.14 VACANCY IN THE OFFICE OF JUSTICE OF THE PEACE.

Wherever a vacancy shall occur in the office of the Justice of the Peace by reason of death, resignation, removal, or otherwise, except by reason of recall, the Council shall fill such vacancy until the next regular city election. At such election such vacancy shall be filled for any balance of the unexpired original term.

SECTION 3.15 CITY REPRESENTATIVES ON BOARD OF SUPERVISORS.

Until such time that the City of White Cloud shall be entitled to an additional number of representatives upon the Board of Supervisors of the County of Newaygo by reason of an increase of population or otherwise, under the laws of the State, the city shall be entitled to two (2) representatives upon such board. Such two (2) representatives of the City upon the Board of Supervisors of the County of Newaygo shall be comprised by the Mayor or, in the discretion of the Council, the City Attorney, and one (1) elector or councilman of the city to be appointed by the Council. In case of the necessary absence or the temporary inability of any city elector or electors of the city to serve as the Supervisor or Supervisors to which the city is so entitled. Supervisors appointed by the Council shall serve in such capacity at the pleasure of the Council. All Supervisors of the city shall be entitled to retain any compensation and mileage paid to them by the Council as members of the Board of Supervisors.

CHAPTER 4. FUNCTIONS OF THE COUNCIL

SECTION 4.1 PROVIDING FOR PUBLIC HEALTH AND SAFETY.

Through the departments and agencies of the city government, the Council shall provide for the public peace and health and for the safety of persons and property. The Council shall constitute the Board of Health of the city, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by state laws.

SECTION 4.2 REGULAR MEETINGS.

The Council shall provide by resolution for the time and place of its regular meetings and shall hold at least one regular meeting each month.

SECTION 4.3 SPECIAL MEETINGS.

(a) Special meetings shall be called by the Clerk on the written request of the Mayor or any two members of the Council on at least twenty-four hours' written notice to each member of the Council served personally or left at his usual place of residence but any special meeting at which all members of the Council are present or have waived notice thereof in writing shall be a legal meeting.

(b) No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. However, if all the members of the Council are present at any special meeting of the Council and consent thereof, then any business which might lawfully come before a regular meeting of the Council may be transacted at such special meeting.

(c) All regular and special meetings of the Council shall be open to the public and the rules of order of the Council shall provide that citizens shall have a reasonable opportunity to be heard.

(d) Four (4) members of the Council shall be a quorum for the transaction of business at all meetings of the Council, but, in the absence of a quorum, two (2) members may adjourn any regular or special meeting to a later date.

(e) The Council shall determine its own rules and order of business and shall keep a journal of all its proceedings in the English language which shall be signed by the Mayor and the Clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by “Yes” and “No” votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state. Any citizen or taxpayer of the city shall have access to the minutes and records of all regular and special meetings of the Council at all reasonable times.

(f) The Council may, by vote of not less than two (2) of its members, compel the attendance of its members and other officers of the city at its regular and special meetings and enforce orderly conduct therein; and any member of the Council or other officer of the city who refuses to attend such meetings or conduct himself in an orderly manner thereat shall be deemed guilty of misconduct in the office. The Chief-of-Police shall serve as the Sergeant-at-Arms of the Council in the enforcement of the provisions of this section.

(g) No Councilman shall vote on any question in which he has a financial interest other than the common public interest or on any question concerning his own conduct, but on all other questions each member who is present shall vote unless excused by unanimous consent of the remaining members present.

(h) The proceedings of the Council or a summary thereof shall be published at least once within 15 days following each meeting. Any such summary of such proceedings shall be prepared by the Clerk and approved by the Mayor, and shall show the substance of each separate proceedings of the Council.

SECTION 4.4 PRIOR ORDINANCES AND REGULATIONS.

All by-laws, ordinances, resolutions, rules and regulations of the Village which are not inconsistent with this charter and which are in force and effect on the effective date of this charter shall continue in full force and effect as by-laws, ordinances, resolutions, rules and regulations of the city until repealed or amended. If any such ordinance, resolution, rule or regulation provides for the appointment of any officers or any members of any board or commission by the Village President, such officers or members of any board or commission shall, after the effective date of this charter, be appointed by the Council.

SECTION 4.5 ORDINANCE ENACTMENT.

All legislation of the City of White Cloud shall be by ordinance or by resolution. The word "Resolution" as used in this charter shall be the official action of the Council in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this charter or by state or federal law and to matter pertaining to the internal affairs or concerns of the city government. All other acts of the Council, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Ordinances may be enacted, amended or repealed by the affirmative vote of not less than four (4) Councilmen. Each ordinance shall be identified by a number and a short title. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the Council shall be: "The City of White Cloud Ordains:" Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Council at the same meeting at which it is introduced. No ordinance shall be revised, altered, or amended by reference to its title only, but the section or sections of the ordinance revised, altered, or amended shall be re-enacted and published at length, and all ordinances, when enacted, shall be immediately recorded by the Clerk in a book to be called "The Ordinance Book"; and it shall be the duty of the Mayor and Clerk to authenticate such record by their official signatures thereon.

SECTION 4.6 PENALTIES FOR VIOLATIONS OF ORDINANCES.

The Council may provide in any ordinance for the punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety days or both in the discretion of the court.

SECTION 4.7 PUBLICATION OF ORDINANCES.

Each ordinance passed by the Council shall be published at least once within fifteen (15) days after the adoption of the ordinance by the Council. All ordinances of the city shall become effective immediately upon the publication thereof, unless a date upon which an ordinance shall become effective, which is subsequent to the date of the publication thereof, is specifically provided in the ordinance itself. The publication of any ordinance in full after its final passage as part of the published proceedings of the Council shall constitute publication of such ordinance as required therein. An ordinance which is declared therein to be immediately necessary for the preservation of the public peace, health or safety may be given effect before publication as otherwise required by this charter if preliminary publication is accomplished by posting copies thereof in conspicuous locations in ten public places in the city; and the Clerk shall, immediately after such posting, enter in the Ordinance Book under the record of the ordinance, a certificate under his hand stating the time and place of such publication by posting, which certificate shall be prima facie evidence of such publication by posting; however, such ordinance shall also be published in the manner required for other ordinances within fifteen days after its adoption.

SECTION 4.8 TECHNICAL CODES.

The Council may adopt any provision of state law or any detailed technical regulation of a city ordinance or code by citation of such provision of state law or by reference to any recognized standard code, official or unofficial, provided that any such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting the same as an ordinance of the city. Where any recognized official or unofficial standard code is so adopted, it may be published by providing to the public not less than fifty (50) copies in book or booklet form, available for public

distribution at a reasonable charge, and any amendment to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

SECTION 4.9 INITIATIVE AND REFERENDUM.

An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the Council may be had, by a petition, as hereinafter provided.

SECTION 4.10 PETITIONS.

An initiatory or a referendary petition shall be signed by not less than fifteen (15) per cent of the registered electors of the city who have signed said petition within six (6) months before date of filing the petition with the Clerk. Before being circulated for signatures, all such petitions may be approved as to form by the Clerk. No such petition need be on one paper but may be the aggregate of two (2) or more petition papers. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place thereon, after his name, the date and his place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereto and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the Clerk who shall, within ten (10) days, canvass the signatures thereon to determine the sufficiency thereof. If found to contain an insufficient number of signatures of registered electors of the city, or to be improper as to form or compliance with the provisions of this section, the Clerk shall notify forthwith the person filing such petitions, and ten (10) days from such notification shall be followed for the filing of supplement petition papers. When found sufficient and proper, the Clerk shall present the petition to the Council at its next regular meeting.

SECTION 4.11 COUNCIL PROCEDURE.

Upon receiving initiatory or referendary petition from the Clerk, the Council shall, within thirty (30) days, either

(a) If it be an initiatory petition, adopt the ordinance as submitted in the petition or determine to submit the proposal to the electors of the city;

(b) If it be a referendary petition, repeal the ordinance to which the petition refers or determine to submit the proposal to the electors of the city.

SECTION 4.12 SUBMISSION TO ELECTORS.

Should the Council decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any purpose, or, in the discretion of the Council, at a special election. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by the Constitution or laws of the State of Michigan.

SECTION 4.13 ORDINANCE SUSPENDED.

The certification by the Clerk of the sufficiency of a referendary petition filed within thirty (30) days after the passage of the ordinance to which such petition refers shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors as the case may be. An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed by the Council for a period of two (2) years after the date of the election at which it was adopted.

SECTION 4.14 FRANCHISES, CONTRACTS AND LEASES REMAIN IN EFFECT.

All franchises, contracts and leases to which the Village or City is a party when this charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

SECTION 4.15 GRANTING OF PUBLIC UTILITY FRANCHISE.

Public utility franchises and all renewals and extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years.

No franchise ordinance which is not subject to revocation at the will of the city shall be enacted nor become, operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be approved by the Council for referral to the electorate before thirty days after application therefore has been filed with the Council, nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the Clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered by the Council unless the expense of holding such election, as determined by the Council, shall have first been paid to the Treasurer by the grantee.

A franchise ordinance which is subject to revocation at the will of the city may be enacted by the Council without referral to the voters, but shall not be enacted nor become operative unless it shall have been complete in the form in which it is finally enacted and remain on file with the Clerk for public inspection for at least four weeks before the final enactment thereof.

SECTION 4.16 CONDITIONS OF PUBLIC UTILITY FRANCHISE.

All public utility franchises granted after the adoption of this charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the city:

(a) To repeal the same for misuse, non-use or failure to comply with the provisions thereof;

(b) To require reasonable and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;

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

(d) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

(e) To impose such other reasonable regulations as may be conducive to the health, safety and accommodation of the public;

(f) To use, control and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them. The above enumeration shall not be exclusive or impair the right of the Council to insert in such franchise any provision without the power of the city to impose or require.

SECTION 4.17 RESTRICTIONS ON THE COUNCIL.

The Council shall not have the power to make any contract with, or give any official position to one who is in default to the city. Further, the Council shall not have the power to sell any park, cemetery or any part thereof, except where such park is not required under an official master plan of the city, or to engage in any business enterprise requiring an investment of money in excess of 10c per capita, unless these actions are approved by a three-fifths majority of the electors voting thereon at a regular or special election.

Unless by the affirmative vote of four Councilmen, no office shall be created or abolished, no tax or assessment shall be imposed, no street, alley, or public ground shall be vacated, no real estate or any interest therein shall be sold or disposed of, no action shall be taken to condemn private property for public use, no money shall be appropriated, nor shall any vote of the Council be reconsidered or rescinded.

SECTION 4.18 INVESTIGATIONS.

The Council, or any person or committee authorized by it for the purpose, shall have the power to inquire into the conduct of any department, office, or officer of the city and make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Failure on the part of any officer of the city to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct in office. If such failure shall be on the part of an employee of the city, the same shall constitute a misdemeanor.

SECTION 4.19 SEVERABILITY OF ORDINANCES.

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

CHAPTER 5. ELECTIONS AND APPOINTMENTS

SECTION 5.1 ELIGIBILITY FOR OFFICE IN CITY.

No person shall be eligible, for any elective office of the city unless he shall be a qualified elector of the city and shall have been a resident of the city for at least two years immediately prior to the date of the election at which he is a candidate for office.

All administrative, officers shall be United States citizens.

No person shall be eligible for any elective or appointive office, who is in default to the city or to any other governmental unit of the state. The holding of office, by any person who is in such default shall create a vacancy unless such default shall be cured within thirty days after written notice thereof by the Council or unless such person in good faith be contesting the liability for the default.

SECTION 5.2 VACANCIES IN OFFICE.

After notice and hearing, any city office shall be declared vacant by the Council upon the occurrence of one or more of the following events before the expiration of the term of such office:

(a) For any reason specified by statute or this charter as creating a vacancy in office;

(b) If the officer shall absent himself continuously from the city for more than sixty days without the permission of the Council;

(c) In the case of any member of the Council, if such officer shall miss five consecutive regular meetings of the Council, or twenty five per cent of such meetings in any fiscal year of the city, unless such absences shall be excused by the Council and the reason therefore entered in the proceedings of the Council at the time of each absence;

(d) If the officer shall be found guilty of any act constituting misconduct in office under the provisions of this charter by any court or by the vote of four or more members of the Council at or following such hearing.

For the purposes of this section, notice shall be given to the officer ten days before the hearing personally or by delivering the same at his last known place of residence. Such notice shall include a statement of reasons for the proposed removal. The hearing shall afford an opportunity to the officer, in person or by attorney, to cross-examine witnesses and to present testimony in defense.

SECTION 5.3 RESIGNATIONS.

Resignations of all city officers shall be made in writing and filed with the Clerk and shall be acted upon by the Council at its next regular or special meeting following receipt thereof by the Clerk.

SECTION 5.4 FILLING VACANCIES.

Vacancies in elective offices other than Justice of the Peace shall, within sixty days, be filled for the unexpired term of the officer whose office has become vacant by appointment by the Council of a person possessing the qualifications for the office.

SECTION 5.5 OATH OF OFFICE AND BOND.

Every officer, elective or appointive, before entering upon the duties of his office, shall qualify by taking

the oath of office prescribed for public officers by the constitution of the State, and by filing the oath with the Clerk, together with any bond required by statute, this charter or by the Council. In case of failure to comply with the provisions of this section within ten days from the date he is notified in writing of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the Council shall, by resolution, extend the time in which such officer may qualify as above set forth.

SECTION 5.6 QUALIFICATIONS OF ELECTORS.

The inhabitants of the city having the qualifications of electors in the State of Michigan, and no others, shall be electors of the city.

SECTION 5.7 REGISTRATION LIST.

The Registration List of Electors for the Village of White Cloud shall become the Registration List for the City of White Cloud at the time this charter becomes effective.

SECTION 5.8 ELECTION PROCEDURE.

The election of all city officers shall be on a nonpartisan basis. The general election laws of the state shall apply to and control, as near as may be, all procedures relating to registration and city elections except as such general laws relate to political parties or partisan procedure and except as otherwise provided in this charter.

SECTION 5.9 REGULAR CITY ELECTIONS.

A non-partisan regular city election shall be held on the first Monday in April in each odd numbered year.

SECTION 5.10 SPECIAL ELECTIONS.

Special city elections shall be held when called by resolution of the Council at least thirty (30) days in advance of such election, or when required by this charter or the general laws of the state. Any resolution calling a special election shall set forth the purpose of such election. No more than two special city elections shall be called in any one year.

SECTION 5.11 ELECTION COMMISSION.

An election commission is hereby created, consisting of the Clerk, Mayor, and the Justice of the Peace. The Clerk shall be the chairman. The commission shall have charge of all activities and duties required of it by state law and this charter relating to the conduct of elections in the city. The Compensation of election personnel shall be determined in advance by the Council. In any case where election procedure is in doubt, the election commission shall describe the procedure to be followed. Said election commission shall before each election appoint a board of inspectors of election, which board shall consist of not less than three qualified electors of the city. When a city election is held on the same day as a national, state, or county election or primary, the same election officials shall act in both the city and file national, state or county election or primary.

SECTION 5.12 NOTICE OF ELECTIONS.

Notice of the time and place of holding any city election and of the officers to be nominated or elected and the questions to be voted upon shall be given by the Clerk in the same manner and at the same time as provided in the state election law for the giving of notice by township or city clerks.

SECTION 5.13 VOTING HOURS.

The polls of all elections shall be opened and closed at the time prescribed by law for the opening and closing of polls at state elections.

SECTION 5.14 NOMINATION PETITIONS.

Persons desiring to qualify as candidates for any elective office under this charter shall file a petition therefore with the Clerk signed by not less than fifteen (15) nor more than thirty (30) registered electors of the city not later than 12:00 o'clock noon, E.S.T. on the fourth Saturday prior to the date of the regular city election. The form of petition shall be substantially as that designated by the Secretary of State for the nomination of non-partisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk. The Clerk shall publish notice of the last day and time for filing nomination petitions at least one (1) week before, and not more than three (3) weeks before that date. No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office, such name shall not be counted upon any petition for that office.

SECTION 5.15 APPROVAL OF PETITIONS.

The Clerk shall accept only nomination petitions which conform with the forms provided and maintained by him, and which, considered together, contain the required number of valid signatures for candidates having those qualifications required for the respective elective city officers by this charter. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate. The Clerk shall, forthwith after the filing of a petition, notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall in no way prevent a final determination that the petition and whether or not the candidate has the qualifications required for his respective elective city office by this charter and shall write his determination thereof on the face of the petition and shall notify in writing the candidate whose name appears thereon of his determinations.

SECTION 5.16 PUBLIC INSPECTION OF PETITIONS.

All nomination petitions filed shall be open to public inspection in the office of the Clerk.

SECTION 5.17 FORM OF BALLOTS.

The form of the ballot used in any city election shall conform as nearly as may be to that prescribed by the general laws of the state, except that no party designation or emblem shall appear upon any city ballot. The names of qualified nominees for each office shall be listed in a single column and shall be located on the ballot.

SECTION 5.18 CANVASS OF VOTES.

The Council shall be the board of canvassers to canvass the votes at city elections, except that if any of such persons is a candidate for office at the election to be canvassed such person shall not serve as a canvasser at such election. The Council may employ such additional help as may be needed to act on Board of Canvassers. The board of canvassers shall convene on the Wednesday next succeeding each city election at the usual time and place of meeting of the Council and determine the results of the city election upon each question and proposition voted upon and what persons are duly elected or nominated to the several offices respectively at said election, and shall notify in writing the successful candidates or nominees of their election.

SECTION 5.19 TIE VOTE.

If, at any city election, there shall be no choice between candidates by reason of two (2) or more persons having received an equal number of votes, then the Council shall name a date for the appearance of such persons for the purpose of determining the election of such candidates by lot as provided by state law. Should any person or persons fail or refuse to appear, in person or by representative, to determine the result of any tie election at the time and place named by the Council, such determination shall be made by lot in his or their absence at the direction and under the supervision of the Council. Such determination shall, in any event, be final.

SECTION 5.20 RECOUNT.

A recount of the votes cast at any city election for any office or upon any proposition may be had in accordance with the general election laws of the state. Unless otherwise provided by statute the petition for a recount of the votes cast at any city election shall be filed with the Clerk within six (6) days after the board of canvassers has made its official report of the result of the election at which such votes were cast, and any counter petition shall be filed within twenty-four hours thereafter.

SECTION 5.21 RECALL.

Any elective official may be removed from office by the electors of the city in the manner provided by the general laws of the state. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by law.

SECTION 5.22 CHANGE IN TERM OF OFFICE OR COMPENSATION.

Except by procedures provided in this charter the terms of the elective officials of the city may not be extended beyond the period for which any such officer was elected except that an elective officer of the city shall, after his term has expired, continue to hold office until his successor is elected and has qualified. The Council shall not grant or authorize extra compensation to any city officer, agent or contractor, after the service has been rendered or the contract entered into. Nor shall the salary of any elective city officer be increased or decreased after his election during any fixed term of office for which he was elected.

CHAPTER 6. GENERAL FINANCE AND TAXATION

SECTION 6.1 FISCAL YEAR.

The fiscal year of the city and all of its agencies shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

SECTION 6.2 BUDGET PROCEDURES.

The Mayor of the City shall be the Budget Officer. Each board, commission, officer and department head shall submit his recommended budget with supporting explanation for the next fiscal year to the Budget Officer on or before March 15 of each year.

The Budget Officer shall prepare and submit to the Council, on or before the first regular meeting in April of each year, a budget document covering the next fiscal year tabulating the recommendations of the several department heads and officials, and shall include therein at least the following information:

(a) Detailed estimates, with supporting explanations, of all proposed expenditures for each department and office of the city, together with the expenditures for corresponding items for the last preceding fiscal year in full and for the current fiscal year to March 1 and estimated expenditures for the balance of the current fiscal year;

(b) Statements of the bonded and other indebtedness of the city, showing the debt redemption and interest requirements, the debt authorized and unissued and the condition of sinking funds, if any.

(c) Detailed estimates of all anticipated revenues of the City from sources other than taxes, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full and for the current fiscal year to March 1 and estimated revenues for the balance of the current fiscal year.

(d) A statement of the estimated balance or deficit for the end of the current fiscal year;

(e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;

(f) Such other supporting schedules as the Council may request.

SECTION 6.3 BUDGET HEARINGS.

A public hearing on the budget shall be held before its final adoption, at such time and place as the Council shall direct, and notice of such public hearing shall be published at least one (1) week in advance by the Clerk. A copy of the proposed budget shall be on file and available to the public for inspection during office hours at the office of the Clerk for a period of not less than one (1) week prior to such public hearing.

SECTION 6.4 ADOPTION OF BUDGET, TAX LIMIT.

Not later than the third Monday of May, the Council shall, by resolution, adopt the budget for the next fiscal year and shall, in such resolution make an appropriation for the money needed for municipal purposes during the ensuing fiscal year of the city and provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes, which levy shall not exceed two (2) per cent of the assessed valuation of all real and personal property subject to taxation in the city.

SECTION 6.5 BUDGET CONTROL.

Except for purposes which are to be financed by the issuance of bonds, special assessment, or other method not requiring a budget appropriation, no money shall be drawn from the treasury of the city without an appropriation thereof, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The Council may transfer any unencumbered appropriation balance or any portion thereof, from one department, fund or agency to another. In the case of emergency arising from a pressing need other than a regular or recurring requirement and necessary to protect the public health, welfare or safety, the Council may make additional appropriations to cover unanticipated expenditures required of the city because of such emergency. The balance in any appropriation which has not been encumbered at the end of the fiscal shall revert to the general fund.

At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the officer responsible for maintenance of the city accounting system shall submit to the Council data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

SECTION 6.6 DEPOSITORY.

The Council shall designate the depository or depositors for city funds, and shall provide for the regular deposit of all city moneys. The Council shall provide for such security for city deposits as is authorized or permitted by the general laws of the state, except that personal surety bonds shall not be deemed proper security.

SECTION 6.7 INDEPENDENT AUDIT.

An independent audit shall be made of all accounts of the city government at least annually and more often if deemed necessary by the Council. Such audit shall be made by certified public accountants experienced in municipal accounting. The results of such audit shall be made public in such manner as the Council may determine, but, as a minimum, it shall be available for inspection at the office of the Clerk.

SECTION 6.8 POWER TO TAX.

The city shall have the power to assess taxes and levy and collect rents, tolls, and excises.

SECTION 6.9 SUBJECTS OF TAXATION.

The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law. Except as otherwise provided by this charter, city taxes shall be levied, collected and returned in the manner provided by statute.

SECTION 6.10 EXEMPTIONS.

No exemptions from taxation shall be allowed, except as expressly required or permitted by statute.

SECTION 6.11 TAX DAY.

Unless otherwise provided by law, the first day of January in each year shall be Tax Day of both real and personal property in the city.

SECTION 6.12 TIME FOR MAKING ASSESSMENT ROLLS.

On or before the 1st Monday of March in each year, the Assessor shall make and complete the assessment roll in the manner and form provided in the general tax law of the state.

SECTION 6.13 BOARD OF REVIEW.

The Council shall annually, in the month of January, appoint two (2) qualified freeholders who are electors of the city to serve with the assessor as members of the Board of Review and shall set their compensation at the time of their appointment.

SECTION 6.14 MEETING OF THE BOARD OF REVIEW.

The Board of Review shall meet on the Tuesday following the first Monday in March at such place and hours as shall be designated by the Council, and shall continue in session during that day, and the day following if necessary for the purpose of considering and correcting the roll. Said Board, of its own motion, or on sufficient cause being shown by any person, shall add to said roll the names of persons, the value of personal property and the description and value of real property liable to assessment in said city, omitted from such assessment roll; they shall correct all errors in the names of persons, in the descriptions of property upon such roll, and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said roll comply with the provision of statutes as pertaining to townships. The roll shall be reviewed according to the facts existing on the tax day. The board shall not add to the roll any property subject to taxation on said day regardless of any change in the taxable status of such property since such day. The board shall pass upon each valuation of each interest, and shall enter the valuation of each, as fixed by it, in a separate column. The roll as prepared by the assessor shall stand as approved and adopted as the act of the board of review, except as changed by a vote as herein provided. If for any cause a quorum does not assemble during the days above mentioned, the roll as prepared by the assessor shall stand as if approved by the board of review.

Said board of review shall also meet at the place designated by the Council on the second Monday in March at 9 o'clock in the forenoon, and continue in session during the day and the day following. Such board shall continue its sessions at least 6 hours each day, and at the request of any person whose property is assessed thereon or of his agent, and on sufficient cause being shown, shall correct the assessment as to such property, in such manner as in their judgment will make the valuation thereof relatively just and equal. To that end said board may examine on oath the person making such application or any other person touching the matter. Any member of said board may administer such oath. After said board shall complete the view of said roll, and not later than the first Monday in April, a majority of said board shall endorse thereon and sign a statement to the effect that the same is the assessment roll of said city for the year in which it has been prepared and approved by the board of review. Said statement may be in the following form, viz:

"Assessment roll of the city of White Cloud, for the year 20___ as approved by the board of review.

"Dated _____

_____

_____

_____

"Board of Review"

SECTION 6.15 NOTICE OF MEETINGS.

Notice of the time and place of the sessions of the Board of Review shall be published by the Clerk the week prior to said meetings and by posting in at least four (4) conspicuous places within the city.

SECTION 6.16 CLERK TO CERTIFY TAX LEVY.

Within three days after the Council has adopted the budget for the ensuing year, the Clerk shall certify to the Assessor that total amount which the Council determines shall be raised by general tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the Council requires to be assessed, reassessed or charged upon any property or against any person.

SECTION 6.17 CITY TAX ROLL.

After the Board of Review has completed its review of the assessment roll the Assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll," and upon receiving the certification of the several amounts to be raised as provided in Section 6.16, the Assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general city tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the Assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax roll shall belong to the city.

SECTION 6.18 TAX ROLL CERTIFIED FOR COLLECTION.

After extending the taxes aforesaid and not later than the fifteenth (15) day of June in each year, the Assessor shall certify said tax roll, and the Mayor shall annex his warrant thereto, directing and requiring the Treasurer to collect prior to November first of said year, from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment, and granting to him, for the purpose of collecting the taxes, assessments, and charges on such roll, all the powers and immunities possessed by township treasurers for the collection of taxes under the general laws of the state.

SECTION 6.19 TAXES LIEN.

On June 15 the taxes thus assessed shall become a debt due to the city from the persons to whom they are assessed. On July 1 the amounts assessed on any interest in real property shall become a lien upon such real property for such amounts and for all interest and charges thereon and all personal taxes shall become a first lien on all personal property of such persons so assessed.

The liens shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

SECTION 6.20 TAXES DUE; NOTIFICATION.

City taxes shall be due on the first day of July of the year when levied. The Treasurer shall not be required to call upon the persons named in the city tax roll, nor to make personal demand for the payment of taxes, but he shall give notice to the taxpayers of the city by publications in a newspaper at least twice, the last of which publication of notice shall be made at least ten (10) days prior to the first day of July in each year, of the time when said taxes will be due for collection, or shall give such notice by first class mail addressed to the owners of the property upon which taxes are assessed according to the names of such owners and their addresses as indicated on the tax roll, which notice shall be deemed sufficient for the payment of all taxes on said roll. Failure on the part of the Treasurer to give said notice shall not invalidate the taxes on said tax roll nor release any person or property assessed from the penalty provided in this charter in case of non-payment of the same.

SECTION 6.21 COLLECTION OF CITY TAXES.

City taxes shall be due and payable on the first day of July of each year. To all taxes there shall be added one (1) per cent as a collection fee. To all taxes paid after August 15, there shall also be added a three (3) per cent penalty. The added collection fees, penalties, and interest herein provided shall belong to the city and shall constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added.

SECTION 6.22 DELINQUENT TAX ROLL TO COUNTY TREASURER.

If the Treasurer has been unable to collect any of the city taxes on said roll of real property before the first day of November following the date when said roll was received by him, it shall be his duty to return all such unpaid taxes on real property to the county treasurer in the same manner and with like effect as returns by township treasurers of township, school and county taxes. Such returns shall be made upon a delinquent tax roll to be prepared by the Treasurer and shall include all the additional charges and fees herein before provided, which charges shall, in such return, be added to the amount assessed in said tax roll against each description. The taxes thus returned to the county treasurer to be collected under the provisions of the general laws of the state shall be and remain a lien upon the lands against which they are assessed until paid.

SECTION 6.23 FAILURE OR REFUSAL TO PAY TAX.

If any person, firm or corporation shall neglect or refuse to pay any tax assessed to him or them, the Treasurer shall collect the same by seizing the personal property of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance, with statutory provisions. The Treasurer may, if otherwise, unable to collect a tax on personal property, sue the person, firm or corporation to whom it is assessed in accordance with statute.

SECTION 6.24 PURCHASING AGENT.

The Council may designate one of the administrative officers of the city as Purchasing Agent, and he shall be responsible for the purchase and sale of all city property. In all sales or purchases in excess of $500.00, the sale or purchase shall be approved by the Council, and formal sealed bids shall be obtained unless the Council by formal unanimous resolution of those present at the meeting determine that no advantage to the city would result from competitive bidding. The Council may authorize the making of public improvements or the performance of any other city work by a city agency without competitive bidding. The Council may establish detailed purchasing, sale and contract procedure by ordinance or resolution.

SECTION 6.25 PROTECTION OF CITY LIEN.

The city shall have the power to acquire by purchase any premise within the city at any tax or other public sale, or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the city for taxes or special assessments, or both, on said premises and may hold, lease or sell the same for the purpose of securing therefrom the amount of such taxes or special assessments, or both, together with any incidental expenses incurred in connection with the exercise of this power. Any such procedure exercised by the city in the protection of its tax lien shall be deemed to be for a public purpose.

SECTION 6.26 STATE, COUNTY, AND SCHOOL TAXES.

For the purpose of assessing taxes in the city for state, county, and school purposes, the city shall be considered the same as a township, and all provisions of state law relative to the collection of such taxes and the fees to be paid therefore, the accounting therefore to the appropriate taxing units, and the returning of property to the county treasurer for non-payment thereof shall apply to the performance thereof by the Treasurer, who shall perform the same duties and have the same powers as township treasurers, under state law.

SECTION 6.27 MUNICIPAL BORROWING POWER.

Subject to the applicable provisions of law and this charter, the Council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the city and permitted by law and may authorize the issuance of bonds or other evidences of indebtedness therefore. Such bonds or other evidence of indebtedness shall include but not be limited to the following types:

(1) General obligations which pledge the full faith, credit and resources of the city for the payment of such obligations; when authorized by a three-fifths vote of the electors voting thereon at any general or special election;

(2) Notes issued in anticipation of the collection of taxes;

(3) In case of fire, flood or other calamity, emergency loans due in not more than five years for the relief of the inhabitants of the city and for the preservation of municipal property;

(4) Special assessment bonds issued in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the city.

(5) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the city is authorized by this charter to acquire or operate, provided such bonds shall not impose any liability upon such city but shall be secured only upon the property and revenues of such public utility, including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure. Such bonds shall be authorized by a three-fifths vote of the electors voting thereon at any general or special election. A sinking fund shall be created in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity, unless serial bonds are issued of such a nature that no sinking fund is required.

(6) Bonds issued at a rate of interest not to exceed six per cent per annum to refund money advanced or paid on special assessments imposed for water main extensions.

(7) Bonds for the refunding of the funded indebtedness of the city.

(8) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement and do not constitute a general obligation of the city.

SECTION 6.28 LIMITS OF BORROWING POWERS.

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten per cent of the assessed value of all the real and personal property in the city, provided that in computing such net bonded indebtedness there shall be excluded money borrowed under the following sections of this charter: 6.27 (2) (tax anticipation notes), 6.27 (3) (emergency loans), 6.27 (4) (special assessment bonds even though they are also a general obligation of the city), 6.27 (5) (mortgage bonds), 6.27 (6) (special assessment refunding bonds), 6.27 (8) (revenue bonds), and other bonds which do not constitute a general obligation of the city.

The amount of emergency loans which the Council may make under the provisions of Section 6.27 (3) of this charter may not exceed three-eighths of one per cent of the assessed value of all the real and personal property in the city.

The total amount of special assessment bonds pledging the full fault and credit of the city shall at no time of refunding bonds, exceed five per cent of the assessed value of all the real and personal property in the city, nor shall such bonds be issued in any consecutive period of twelve months in excess of one per cent of such assessed value unless authorized by a majority vote of the electors voting thereon at any general or special election.

CHAPTER 7. PUBLIC IMPROVEMENTS, CONTRACTS, UTILITIES

SECTION 7.1 GENERAL POWER RELATIVE TO SPECIAL ASSESSMENTS.

(a) The Council shall have the power to determine the necessity of any local or public improvement and to determine that the whole or any part of the expense shall be defrayed by special assessment upon the property especially benefited, provided that, in each case, such special assessments shall be issued upon or be in proportion to benefits derived or to be derived.

(b) The Council shall, in the exercise of its powers of special assessment, have power to provide for the following, but this list shall not be exclusive:

1. For the payment of special assessments in annual installments not to exceed fifteen in number, the first such installment to be due either upon conformation of the special assessment roll or on the following July 1 and subsequent installments to be due on July 1 of succeeding years and to be placed upon the annual city tax roll, and for an interest charge until the due date of each such deferred installment not to exceed six per cent per year, subject to the right of advance payment of any such installment with interest only to the date of payment.

2. For making additional pro rata assessments when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incident thereto, provided that the additional pro rata assessment shall not exceed twenty-five per cent of the assessment as originally confirmed unless a meeting of the Council be held to review such additional assessment, for which meeting notices shall be mailed as provided in the case of review of the original special assessment roll.

SECTION 7.2 OBJECTIONS TO IMPROVEMENTS.

If the owners of property which will be required to bear more than 50% of the amount of such special assessment shall be object in writing to the proposed improvement, the improvement shall not be made by proceedings authorized by this charter without a five-seventh (5/7) vote of the Council.

SECTION 7.3 DISPOSITION OF EXCESSIVE SPECIAL ASSESSMENTS.

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the city if such excess is five per cent or less of the assessment, but should the assessment prove larger than necessary by more than five per cent the entire excess shall be refunded on a pro rata basis to the owners of the property assessed. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the pro-visions of any outstanding evidence of indebtedness secured in whole or part by such special assessment.

SECTION 7.4 CONTESTED ASSESSMENTS.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment (1) unless within thirty days after the confirmation of the special assessment roll written notice is given to the Council of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal, and (2) unless such suit or action shall be commenced within sixty days after confirmation of the roll.

SECTION 7.5 DELINQUENT SPECIAL ASSESSMENTS.

Special assessments and all interest and charges thereon, from the date of confirmation of the roll, shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for the state and county taxes, and by this charter for city taxes, until paid. From such date after confirmation as shall be fixed by the Council, the same collection fee, penalties, and interest shall be paid on delinquent special assessments and upon delinquent installments of such special assessments as are provided by this charter to be paid on delinquent city taxes. In case any assessment or any part thereof, shall remain unpaid on the first Monday of May following the date when the same became delinquent, the same shall be reported unpaid by the Treasurer to the Council, and such delinquent assessments, together with all accrued interest shall be transferred and reassessed on the next annual city tax roll in a column headed "Special Assessments" with a penalty of four (4) per cent upon such total amount added thereto, and when so transferred and reassessed upon said tax roll shall be collected in all respects as proved for the collection of city taxes.

SECTION 7.6 HAZARDS AND NUISANCES.

When any lot, building, or structure within the city, because of the accumulation of refuse or debris, the uncontrolled growing of weeds, or age or dilapidation, or because of any other condition or happening, becomes, in the opinion of the Council, a public hazard or nuisance which is dangerous to the health or safety of the inhabitants of the city or those of them residing or habitually going near such lot, building or structure, the Council may after investigation, give notice to the owner of the land upon which such hazard or nuisance exists, or to the owner of the building or structure itself, specifying the nature of the hazard or nuisance, and requiring such owner to alter, repair, tear down, or remove same promptly and within a time to be specified by the Council, which shall be commensurate with the nature of the hazard or nuisance. If, at the expiration of the time limit in said notice, said owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known, the Council may order such hazard or nuisance abated by the proper department or agency of the city which is qualified to do the work required, and the costs of such abatement, assessed against the lot, premises or description of real property upon which said hazard or nuisance was located.

SECTION 7.7 ADDITIONAL PROCEDURES.

In any case where the provisions of this charter, either expressed or incorporated therein, may prove to be insufficient to carry into full effect the making of any special assessment, the Council shall provide any additional steps or procedures required to effect the improvement by special assessments.

SECTION 7.8 GENERAL POWERS RESPECTING MUNICIPAL UTILITIES.

The city shall possess and hereby reserve to itself all the powers granted to cities by the constitution and general laws of the State of Michigan to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, public utilities, including but not by way of limitation, public utilities for supplying water, light, heat, gas, power and sewage treatment and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utilities and services, without its corporate limits to an amount not to exceed the limitations set by state law and constitution. The Council shall have the power to fix, from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the city and others with water, with electricity for light, heat and power and with such other utility services as the city may provide.

SECTION 7.9 MANAGEMENT OF MUNICIPAL UTILITIES.

All municipality owned utilities shall be administered as a regular department of the city government, and not by an independent board or commission.

SECTION 7.10 UTILITY CHARGES—COLLECTION.

The Council shall provide by ordinance or resolution for the collection of all public utility charges made by the city by Act 178 of the Public Acts of 1939. When any person or persons, or any firm or corporation, shall fail or refuse to pay to the city any sums due on utility bills, the utility service or services upon which such delinquency exists, may be shut off or discontinued and suit may be instituted by the city for the collection of the same in any court of competent jurisdiction. The city shall have as security for the collection of such utility rates and charges a lien upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying of such utility service.
Editor's note: *Public Act 178 of 1939 can be found at M.C.L.A. §§ 123.161 through 123.167*

SECTION 7.11 DISPOSAL OF UTILITY PLANTS AND PROPERTY.

Unless approved by a three-fourths majority vote of the electors voting thereon at a regular or special election the city shall not sell, exchange, lease or in any way dispose of any property, easement, equipment, privilege or asset belonging to and appertaining to any municipally owned utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any city owned utility which are worn out or useless or which have been or could with advantage to the service be replaced by new and improved machinery or equipment.

SECTION 7.12 UTILITY ACCOUNTS.

Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of the utility and the results of its operations, which report shall be available for inspection at the office of the Clerk.

SECTION 7.13 CONTRACTS.

The authority to contract on behalf of the city is vested in the Council and shall be exercised in accordance with the provisions of the statutes and of this charter. The Council shall establish procedures for the letting and making of contracts, but no contract except an agreement of employment or an agreement for the purchase or sale of goods, wares or merchandise in an amount of one thousand dollars or less shall be made unless the same shall have first been submitted to the attorney and his opinion obtained with respect to its legality and form and unless the officer charged certified that sufficient funds are available or that an appropriation has been made for the payment thereof. In the case of a contract obligating the city for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover payments on the contract which will be due in future fiscal years, but this exception shall not apply to a contract for the construction of a public improvement. A copy of all contracts requiring such opinion and certification shall be filed in the office of the clerk.

No contract shall be amended after the same has been made except upon the authority of the Council.

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

No contract shall be made with any person, firm or corporation who is in default to the city.

CHAPTER 8. MISCELLANEOUS

SECTION 8.1 CITY RECORDS.

All records of the city shall be public.

SECTION 8.2 EFFECT OF ILLEGALITY OF ANY PART OF CHARTER.

Should any provision or section, or portion thereof, of this charter be held by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this charter as a whole or of any remaining portion of such provision or section, it being hereby declared to be the intent of the charter commission and of the electors who voted thereon that such unconstitutionality or illegality shall not affect the validity of any other part of this charter except that specifically affected by such holding.

SECTION 8.3 AMENDMENTS.

This charter may be amended at any time in the manner provided in Act Number 279 of the Public Acts of 1909, as amended. Should two (2) or more amendments, adopted in the same election, have conflicting provisions, the one receiving the largest affirmative vote shall prevail as to those provisions.
Editor's note: *Public Act 279 of 1909 can be found at M.C.L.A. §§ 117.1 et seq.*

SECTION 8.4 CITY RECORDS.

All books, records, compilations, etc., in and pertaining to any city office, elective or appointive, shall be and remain the property of the city.

Each officer of the city, elective or appointive, shall at the close of his tenure of office surrender all such books, records, compilations, etc., to his successor in office or to the Clerk of the city.

SECTION 8.5 CITY LIABILITY.

The city shall not be liable for damages sustained by any person to his person or property by reason of the negligence of the city, its officers or employees, nor by reason of any defective condition of or obstruction in any public place unless such person shall serve or cause to be served upon the Clerk, within sixty days after the injury resulting in such damages shall have, occurred, a notice in writing, which notice shall set forth substantially the time and place of such injury, the manner in which it occurred, the extent of such damages as far as the same has become known, the names and addresses of the witnesses known at the time by the claimant, and a statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him.

The city shall not be liable for any damages to person or property arising out of any such injury unless there shall have been first presented to the Clerk a claim in writing and under oath setting forth particularly the time, place, nature and extent of such injury and the amount of damages claimed by reason thereof. No person shall bring any action against the city for any such damages until such claim shall have been filed with the Clerk and until the Council shall have been given opportunity to act thereon either by allowing or refusing to allow the claim.

It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the city under this section that the notice of injury and the verified proof of claim as in this section required were not presented and filed within the time and in the manner as herein provided.

SECTION 8.6 NO ESTOPPEL.

No estoppel may be created against the city.

SECTION 8.7 CONTINUANCE OF VILLAGE RIGHTS.

After the effective date of this charter, the city shall be vested with all the property, moneys, contracts, rights, credits, effects and the records, files, books and papers belonging to the Village. No right or liability, either in favor of or against the Village, existing at the time this charter becomes effective, and no suit or prosecution of any character shall in any manner be affected by any damage resulting from the adoption of this charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the Village shall be the debts and liabilities of the city, and all fines and penalties imposed at the time of such change shall be collected.

SECTION 8.8 TRUSTS.

All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The Council may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purposes except in cases where the cy pres doctrine shall apply.

SECTION 8.9 DEFINITION OF PUBLICATION: MAILING OF NOTICES.

The requirement contained in this charter for the publishing or publication of notices, ordinances or proceedings shall be met by publishing any appropriate insertion in a newspaper published in the English language for the dissemination of news of a general character which newspaper shall have had a general circulation at regular intervals in the city or Village for at least two years immediately preceding the time that it is used for such publication purposes. The affidavit of the printer or publisher of such newspaper, or of his foreman or principal clerk, annexed to a printed copy of such notice, ordinance or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication.

In any case in which this charter requires the mailing of notices, the affidavit of the officer or employee responsible for such mailing that such notice was mailed shall be prima facie evidence of such mailing.

SECTION 8.10 SUNDAYS AND HOLIDAYS.

Whenever the date fixed by this charter for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

SECTION 8.11 CHAPTER AND SECTION HEADINGS.

The chapter, section and sub-section headings used in this charter are for convenience only and shall not be considered as part of the charter.

SECTION 8.12 INTERPRETATIONS.

Except as otherwise specifically provided or indicated by the context,

(1) All words used in this charter indicating the present tense shall not be limited to the time of the adoption of this charter but shall extend to and include the time of the happening of any event or requirement for which provision is made herein;

(2) The singular number shall include the plural, the plural number shall include the singular, and the masculine gender shall extend to and include the feminine gender and the neuter;

(3) The word “person” may extend and be applied to bodies politic and corporate and to partnerships as well as to individuals;

(4) The words “printed” and “printing” shall include reproductions by printing, engraving, stencil

duplicating, lithographing or any similar method;

(5) Except in reference to signatures, the words “written” and “in writing” shall include printing and typewriting;

(6) The word “Village,” shall mean the municipal corporation of White Cloud as it existed prior to the effective date of this charter including the period from and after its incorporation as a city and until such effective date;

(7) The word “office” shall include the members of the Council, the administrative officers and the Justice of the Peace;

(8) All references to statutes shall be considered to be references to such statutes as amended;

(9) All references to section numbers shall refer to section numbers of this charter.

SECTION 8.13 PENALTIES FOR VIOLATION OF CHARTER.

Any officer of the city found guilty by a court of competent jurisdiction of any act declared by this charter to constitute misconduct in office may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days or both in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant as provided in Section 5.2.

CHAPTER 9. SCHEDULE

SECTION 9.1 STATUS OF SCHEDULE CHAPTER.

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

SECTION 9.2 ELECTION ON ADOPTION OF CHARTER.

This Charter shall be submitted to a vote of the electors of the City of White Cloud for adoption at a special city election to be held on October 2, 1950. In connection with such city election, the Village Clerk shall perform all the duties of the City Clerk in the conduct of the election and the registration therefore, in accordance with the provisions of this Charter and State law. The registration list of the Village of White Cloud shall be the registration list for such election and shall become the permanent city registration list.

For the purposes of this initial election, the Charter Commission shall constitute the Election Commission and it shall also constitute the Board of Canvassers. The existing polling place of the Village of White Cloud shall be used for this election.

The Village Clerk shall, in accordance with State law, publish two notices of the last day of registration for this special election, shall post ten election notices in conspicuous places in the City, and shall do all other things necessary to prepare for and conduct such election. The Charter Commission shall meet to canvass the results of the election on October 2, 1950 at 8:00 p.m. and the Clerk of this Commission shall certify the results of the election and to four copies of the Charter and shall send a certification and two copies of the Charter both to the Secretary of State and to the County Clerk. If said election a majority of the electors voting upon said Charter shall vote in favor of the adoption of said Charter, then said charter shall be declared adopted. In all respects not otherwise provided for in this Charter, the election procedure shall be in accordance with the provisions of the other chapters of this Charter.

SECTION 9.3 FORM OF BALLOT.

Form of Ballot for submission of this Charter shall be as follows:

OFFICIAL SPECIAL ELECTION BALLOT
OCTOBER 2, 1950
CITY OF WHITE CLOUD, MICHIGAN

Instructions: To vote in favor of adopting said proposed Charter, make a cross (X) in the square ( ) to the right of the word “YES” and to vote against adopting said proposed Charter, make a cross (X) in the square ( ) to the right of the, word “No”.

“Shall the proposed Charter of the City of White Cloud, framed by the Charter Commission, which was elected on May 22, 1950, and which has been approved by the Governor of the State of Michigan, be adopted?”

YES ( )
NO ( )

SECTION 9.4 FIRST CITY OFFICERS.

The incumbent officers of the Village of White Cloud at the time of the effective date of this Charter shall become the officers of the City of White Cloud. The Village President shall be the Mayor, the Village Clerk shall become the City Clerk, the Village Treasurer shall become the City Treasurer, the Village Trustees shall become the City Councilmen, and the Village Assessor shall become the City Assessor. All of said officers shall hold said offices until the first general city election as provided in this Charter or until their successor has been elected or appointed and qualified; Provided however, that at said first general city election only three (3) Council-men shall be elected as provided in this Charter, and the three (3) Councilmen whose term as Village Trustees would have expired in 1952, shall hold such office until the general city election to be held in 1953 or until their successor has been elected and qualified. The Council shall at its first regular meeting following the effective date of this Charter appoint a Justice of the Peace who shall hold said office until his successor has been elected and qualified as provided by Section 3.10 of this Charter.

All appointive officers and all employees of the Village shall continue in that city office or employee which corresponds to the village office or employment which they held prior to the effective date of the Charter as though they had been appointed or employed in the manner provided by this Charter and shall in all respects be subject to the provisions of this Charter; except that the terms of office of all members of the Village Board of Review shall terminate on December 15, 1950 and excepting any officer or employee who holds a position which this Charter provides he held at the pleasure of the appointing officer or body shall hold such position only at such pleasure regardless of the term for which originally appointed.

Before February 1, 1951, the Council shall appoint two freeholders as members of the Board of Review, who meet the qualifications for such office as provided in this Charter, and shall fix their compensation. One such member shall be designated for a term expiring in January, 1952 and one for a term expiring in January, 1953.

SECTION 9.5 EFFECTIVE DATE OF THIS CHARTER.

For the purpose of initiating the procedure for the election on the adoption of this Charter, this Charter shall take effect on the day on which the Village Clerk published the first notice of the last day of registration for the special election on the adoption of this Charter. For all other purposes this Charter shall take effect on October 3, 1950, at 8:00 p.m. Eastern Standard Time. At such time the first city officers shall assemble in the municipal council chambers at the White Cloud municipal building. The meeting shall be called to order by a member of the Charter Commission designated by it for the purpose. Each officer shall take and subscribe to his oath of office and shall thereupon be qualified for and shall assume the duties of his office.

At the time the first officers of the City assume the duties of their respective offices, the Village Council shall cease to be and all other elective Village offices shall thereupon cease to be. The control of such Village Council and Village officers and of the officers of the Township of Wilcox over the territory which was formerly the Village shall be superseded by that of the Council and officers of the City of White Cloud.

SECTION 9.6 INTERIM FINANCIAL PROVISIONS.

The Council shall, at its first meeting after the effective date of this Charter, by resolution continue as city appropriation the unencumbered balances of the appropriations made by the previous Village Council of White Cloud for the fiscal year ending February 28, 1951, and these appropriations shall then be deemed to be city appropriations and the fiscal year of the Village shall be completed by the city as though no governmental change had been made. On February 28, 1951, the balances of all appropriations not then encumbered shall revert to the general fund.

The period from March 1, 1951, to June 30, 1951 inclusive, shall constitute a special fiscal period to accomplish the transition from the previously existing fiscal period. A budget for such special fiscal period shall be prepared and adopted and administered in accordance with the provisions of this Charter. The Budget Officer shall submit a budget document to the Council on or before its first regular meeting in February, and the budget shall be adopted not later than February 28, 1951.

SECTION 9.7 PUBLICATION OF CHARTER.

This proposed Charter shall be published in The White Cloud Eagle on September 14, 1950, together with a notice of the election on the adoption of the Charter.

SECTION 9.8 TOWNSHIP ASSETS AND LIABILITIES.

As soon as practicable the Council shall take all necessary and proper action to obtain the division between the City and Township of Wilcox of the assets and liabilities of such Township.

RESOLUTION OF ADOPTION

At a meeting of the Charter Commission of the City of White Cloud, held August 25, 1950, the following resolution was presented by Commissioner Beach who moved its adoption. Said motion was supported by Commissioner Hepinstall.

RESOLVED, That the Charter Commission of the City of White Cloud does hereby adopt the foregoing proposed city charter, and the clerk of this commission is hereby instructed to transmit the same to the Governor of the State of Michigan, in accordance with the provisions of the statute, for his approval.

The vote on the adoption of said resolution was as follows:

Ayes: Branch, Beach, Hepinstall, Fowler, Meyer, Fry, Riblet, Briggs, Hooker.

Nays: None

Signed: HARRY HOOKER, Clerk.
Charter Commission of the City of White Cloud

Countersigned:
TED M. BRANCH
GLEN W. BEACH
JOHN HEPINSTALL
BYRON R. FOWLER
LISLE MEYER
CLYDE FRY
S.K. RIBLET
ORLIE J. BRIGGS
HARRY HOOKER
Charter Commission of the City of White Cloud, Michigan.

All of the commissioners having attested as to said resolution as above and also having attested the copy to be signed by the Governor, the meeting adjourned, subject to the call of the chairman.

STATE OF MICHIGAN)
COUNTY OF NEWAYGO) ss.

Harry Hooker, Clerk of the Charter Commission of the City of White Cloud, being duly sworn, says that an election held in the Village of White Cloud on May 22, 1950 the following named persons were duly elected as a commission to frame a Charter for the City of White Cloud, namely: Ted M. Branch, Glen W. Beach, John Hepinstall, Byron R. Fowler, Lisle Meyer, Clyde Fry, S.K. Riblet, Orlie J. Briggs and Harry Hooker, that the members elected to said Charter Commission did meet on June 1, 1950, within the time prescribed by law, and elected Ted M. Branch, chairman and Harry Hooker, clerk of said Charter Commission, and that the annexed and foregoing charter was duly framed and adopted by said Charter Commission, by the foregoing Resolution of Adoption, which is a true and correct copy thereof, and that the said Charter Commission directed that said Charter

be presented to the electors of the City of White Cloud in accordance with the requirements of the laws of the State of Michigan, which provide therefore.

HARRY HOOKER
Clerk of the Charter Commission of the City of White Cloud.

Dated: August 28, 1950.
Subscribed and sworn to before me this 28th day of August, 1950.

EMMA H. DE LONG
Notary Public, Newaygo County, Michigan.
My commission expires: 6-11-54

I do hereby approve the above and foregoing charter of the City of White Cloud.

Dated: September 11, 1950.

G. MENNEN WILLIAMS
Governor of the State of Michigan

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

10.01 Title of code
10.02 Interpretation
10.03 Application to future ordinances
10.04 Captions
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10.17 Ordinances which amend or supplement code
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10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of White Cloud shall be designated as the Code of White Cloud and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

CITY, MUNICIPAL CORPORATION, or ***MUNICIPALITY.*** The City of White Cloud, Michigan.

CODE, THIS CODE or ***THIS CODE OF ORDINANCES.*** This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Newaygo County, Michigan.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words ***SWEAR*** and ***SWORN*** shall be equivalent to the words ***AFFIRM*** and ***AFFIRMED***.

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

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms ***PERSON*** or ***WHOEVER*** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or ***FOLLOWING.*** Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or ***SUBSCRIPTION.*** Includes a mark when the person cannot write.

STATE. The State of Michigan.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

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

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

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

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

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

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

Cross-reference:

Severability of ordinances, see Charter § 4.19

§ 10.08 REFERENCE TO OTHER SECTIONS.

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state or federal laws, shall be the official time within this municipality for the transaction of all municipal business.

§ 10.12 REASONABLE TIME.

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

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

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

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.
Example: (M.C.L.A. § 15.231) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.
Statutory reference:
For provisions concerning the inspection of public records, see Public Act 442 of 1976, being M.C.L.A. §§ 15.231 et seq.

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding $500 or imprisonment for not more than 90 days, or both fine and imprisonment. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
Statutory reference:
Maximum penalty established, see M.C.L.A. § 117.4i (k)

TITLE III: ADMINISTRATION

Chapter

30. **ELECTIONS**

31. **FIRE PROTECTION SERVICES**

32. **FINANCE AND REVENUE**

33. **LOCAL OFFICERS COMPENSATION COMMISSION**

CHAPTER 30: ELECTIONS

Section 30.01 Filing of nominating petitions

§ 30.01 FILING OF NOMINATING PETITIONS.

Persons desiring to qualify as candidates for any elective office shall file a petition therefore with the City Clerk signed by not less than 15 nor more than 30 registered electors of the city not later than 4:00 p.m. on the seventh Tuesday prior to the date of the regular odd year election as provided in Public Act 239 of 1970, being M.C.L.A. § 168.644f. The form of petition shall be substantially as that designated by the Secretary of State for the nomination of non-partisan judicial officers. A supply of official petition forms shall be provided and maintained by the Clerk. The Clerk shall publish notice of the last day and time for filing nomination petitions at least one week before, and not more than three weeks before that date. No person shall sign his name to a greater number of petitions for any one office than there will be persons elected to said office. Where any name appears on more petitions than there are candidates to be elected to said office such name shall not be counted upon any petition for that office.
(Ord. 20, passed 3-30-71; Am. Ord. 45, passed 4-15-91)

CHAPTER 31: FIRE PROTECTION SERVICES

Section

General Provisions

31.01 Fees for emergency fire or ambulance services

Fire Protection and Merger Agreement

31.10 Continuation of Joint Fire Administrative Board
31.11 Purpose and intent
31.12 Membership
31.13 Term of office of members
31.14 Vacancy
31.15 Meetings
31.16 Fire Board officers
31.17 Records
31.18 Quorum
31.19 Voting by Fire Board members
31.20 Compensation
31.21 Freedom of Information Act
31.22 Procedure
31.23 Fire Board powers
31.24 Fire District finances
31.25 Areas to be served
31.26 Financial contributions
31.27 Collection fees
31.28 Use of funds
31.29 Existing mutual aid agreements
31.30 Equipment
31.31 Location of fire fighting operations
31.32 Custody of funds
31.33 Withdrawal from Fire Protection and Merger Agreement
31.34 Failure to pay
31.35 Annexation - new membership
31.36 Term of Fire Protection and Merger Agreement of April 1, 2001
31.37 Construction of Agreement
31.38 Prior agreements, boards and ordinances
31.39 Amendment
31.40 Effective date
31.41 Audits
31.42 Disputes and arbitration
31.43 Termination

Cross-reference:

Hazardous materials incidents, see Ch. 95

GENERAL PROVISIONS

§ 31.01 FEES FOR EMERGENCY FIRE OR AMBULANCE SERVICES.

(A) Pursuant to M.C.L.A. § 41.806a, the city is hereby authorized to collect from property owners and businesses, certain fees for providing emergency fire or ambulance services to the property owner or business involved.

(B) Such fees shall be set by the City Council by resolution from time to time.

(C) Such fees may be billed directly to the insurer of the property owner or business involved, but the property owner or business to which the emergency or ambulance services are provided in a given case shall ultimately be responsible for paying said fees if the fees are not paid by insurance.

(D) The city, in its discretion, may waive the fees provided herein in any given circumstance if any of the following factors are present:

(1) The city determines that a fire or emergency was not caused due to the fault or negligence of the property owner involved;

(2) Payment of the fee would cause undue financial hardship to the property owner involved; or

(3) Any other good cause shown.
(Ord. 57, passed 4-19-93)

FIRE PROTECTION AND MERGER AGREEMENT

§ 31.10 CONTINUATION OF JOINT FIRE ADMINISTRATIVE BOARD.

The city affirms the establishment and re-establishment of a Joint Fire Administrative Board ("Fire Board"), pursuant to the Michigan Fire Protection Act (the “Act”), being MSA 5.260(1), M.C.L.A. 41.801, as set forth in the amended White Cloud Area Fire Department Fire Protection and Merger Agreement, dated as of April 1, 2001, and which Agreement amended and restated a previous fire protection and merger agreement dated as of August 1, 1996.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.11 PURPOSE AND INTENT.

The purpose and intent of §§31.10 through 31.43 is to re-establishment and continue the previously created Joint Fire District and Joint Fire Administrative Board, subject to the Fire Protection and Merger Agreement as it has been restated and adopted as of April 1, 2001, by the city and the other municipalities participating in the White Cloud Area Fire District ("District").
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.12 MEMBERSHIP.

The city shall appoint two members to serve upon the Fire Board, which members shall be residents of the city. The city shall also appoint one alternate member to the Fire Board, who shall also be a resident of the city and which alternate shall serve, participate and vote, as a regular member of the Fire Board, in the absence of either of the other two regular members appointed by the city. One additional "at large" member of the Fire Board shall be selected by a majority of the other members of the Fire Board, provided that the "at large" member shall serve a six year term and shall be a resident of one of the municipalities participating in the White Cloud Area Fire District. No member of the Fire Board shall be an employee of a fire or police department of the city or of the District.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.13 TERM OF OFFICE OF MEMBERS.

Members appointed to the Fire Board by the city shall be appointed for six year terms, provided further that such members may be removed without cause by action of the city.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.14 VACANCY.

Any vacancy among the two regular or one alternate members appointed by the city shall be filled by such person as the city shall select, for the remainder of the unexpired term, subject to the qualification provisions required for membership as set forth in § 31.12.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.15 MEETINGS.

The Fire Board shall hold at least six meetings per year (on a bi-monthly basis). Additional special meetings may be held as necessary at such times as the Fire Board determines or upon the request of any three members of the Fire Board. The Fire Board shall adopt its own rules of procedure and shall keep a record of its proceedings. Business conducted by the Fire Board shall transpire at public meetings in compliance with the Open Meetings Act, being M.C.L.A. 15.261 et seq. Public notice of the time, date and place of all meetings shall be given in the manner required by law. All meetings of the Fire Board shall be conducted at the White Cloud Fire Station, unless the Fire Board shall elect to hold such meetings at another location within the District.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.16 FIRE BOARD OFFICERS.

At the first meeting of each fiscal year, the members of the Fire Board shall elect from among them a chairperson, vice-chairperson , treasurer and secretary.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.17 RECORDS.

The Fire District shall maintain all of its records, financial or otherwise, at the White Cloud Fire Station, except to the extent that the Fire Board shall determine otherwise. Records of the Fire Board and the Fire District shall be available for review by members of the Fire Board and by appointed agents of the participating municipalities, at reasonable times.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.18 QUORUM.

A majority of the members of the Fire Board shall constitute a quorum for the transaction of business. (Under the present arrangement, with eleven members of the Fire Board, a quorum shall consist of six members.)
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.19 VOTING BY FIRE BOARD MEMBERS.

Each member (including alternate members serving in the absence of a regular member) shall have one vote. Pursuant to § 11(2) of M.C.L.A. 41.801, the affirmative vote of a majority of all of the members (whether present or not) shall be necessary for the adoption of a motion or resolution.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.20 COMPENSATION.

Members of the Fire Board may be compensated according to law and shall be reimbursed for actual and necessary expenses incurred in the performance of Fire Board duties, on the basis and in such amount as determined by the Fire Board.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.21 FREEDOM OF INFORMATION ACT.

All documents required to be made public by the Freedom of Information Act, being M.C.L.A.15.231 et seq., including a writing prepared, owned, used, in the possession of, or retained by the Fire Board in the performance of an official function, shall be made available to the public in compliance with the statute.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.22 PROCEDURE.

Unless otherwise determined by the Fire Board, all questions of procedure shall be governed by Roberts Rules of Order.
(Ord. 61, passed 10-21-96)

§ 31.23 FIRE BOARD POWERS.

(A) The Fire Board shall be responsible for the administration and operating procedures of the District, which shall be deemed to include the Fire Department. The Fire Board shall be responsible for and authorized to control all municipal fire protection activities within the City of White Cloud, Township of Everett, Township of Lincoln, and Township of Wilcox, and within that portion of the Township of Sherman described in § 31.25. Such powers include, but are not limited to:

(1) To establish and maintain a joint fire department;

(2) To employ and approve a chief and such employees and officers as shall be required for the proper and efficient operation and maintenance of the Fire Department;

(3) To buy, sell, and/or lease real or personal property and fixtures, so long as an individual item or lease does not exceed $1,000 per year and it does not unreasonably burden the finances of the District, otherwise the Fire Board shall not undertake such lease or purchase without the consent of all the governing boards of the participating municipalities;

(4) To retain legal counsel, accounting services and other professional services when needed;

(5) To make and establish policies, procedures, rules and regulations for the government of the Fire Department employees, fire fighters and officers and for the care and management of engines, apparatus, property and buildings pertaining to the department;

(6) To adopt rules regarding the powers and duties of such employees, officers, and firemen;

(7) To contract with the legislative body of any township, city or village which is not a participating member and which maintains a fire department for the service thereof or for the care, maintenance and operation of the apparatus and equipment by the fire department of such township, city or village, upon such terms as may be agreed upon; and

(8) In general, to utilize such other powers and duties as are considered necessary by the participating governing bodies.

(B) By the adoption of §§ 31.10 through 31.43 and except as otherwise provided elsewhere herein, all of the foregoing powers and authority are hereby delegated by the participating municipalities to the Fire Board. During the term in which the Agreement is in effect, or until the city withdraws from the Fire Board and the District, the city shall not operate or maintain its own fire department apart from the District and Fire Board.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.24 FIRE DISTRICT FINANCES.

(A) *Operations and Capital Acquisitions Budget.*

(1) The District shall have a budget, which shall be divided into an Operations Budget and a Capital Acquisitions Budget. The Operations Budget shall include expenses necessary for operating the District on an annual basis, including by way of example and not by limitation: utilities, vehicle and equipment maintenance and repairs, supplies, petroleum products, insurance, payroll/wages, professional expenses, training/educational expenses for fire fighters, and the purchase or lease of real or personal property not exceeding $1,000 in costs. The Capital Acquisitions Budget shall consist of the purchase or lease of fire fighting equipment in excess of $1,000 in cost.

(2) Expenditures from the Capital Acquisitions Budget shall include, by way of example and not limitation: new buildings, real property, improvements to present buildings, housing for the fire department and purchase or lease of fire fighting equipment and apparatus.

(B) *Budget Approval.* The Fire Board shall prepare annual District budgets. Upon approval of a simple majority of the Fire Board, the proposed budgets shall be submitted to the participating municipalities for appropriation. In the event the municipalities fail to appropriate the funds necessary to fund the budget, the Fire Board shall hold a joint meeting of the municipalities. Amendments to an Operations Budget may be made by a simple majority of the Fire Board members, unless prohibited by the language of the appropriations resolutions. Such budgets shall be prepared and submitted to each participating municipality by February 1 of each year.

(C) *Budget Income.* The District budgets shall include estimated revenue to be received by the District, including assessments to the participating municipalities as set forth hereafter in the Agreement, donations, reimbursements and all other sources (herein called "income").

(D) *Allocation of Income.* Projected income shall be divided as follows: The Operations Budget shall not exceed 98% of the total of each participating municipality's allocated (contribution) amounts with a minimum of 2% of this total amount to be deposited in the Capital Acquisitions Fund. Reimbursements, fees, unspecified donations and the like shall be deposited in the Capital Acquisitions Fund. Funds raised from fund raisers sponsored by the fire fighters may be allocated as the fire fighters shall determine, subject to the review and approval of the Fire Board.

(E) *Operating Budget Surplus.* To the extent not prohibited by law, surplus (i.e. moneys budgeted but not spent during the fiscal year) from the annual operations shall be placed and retained in a Budget Stabilization Fund, in order to fund operating expense deficiencies in other years. Provided further that once the Budget Stabilization Fund reaches the sum of $7,000, the excess funds shall be transferred from the Budget Stabilization Fund to the Capital Acquisitions Fund.

(F) *Operations Budget Deficits.* Deficits in the Operations Budget shall be cured according to the following protocol. First, the District shall draw upon the Budget Stabilization Fund referenced in (E) above, to the extent available. In the event that such Budget Stabilization Fund is insufficient to cure an operations deficiency, then the Fire Board shall calculate the amount of the funds necessary to cure such deficiency, and make such fact known to the participating municipalities. The participating municipalities shall have 45 days to unanimously agree to an additional voluntary contribution of funds from each participating municipality to the District, according to the formula set forth below for regular annual assessments. In the event of the failure of all of the participating municipalities to pay such additional funds, then the Fire Board shall be authorized to draw upon the Capital Acquisitions Fund in order to make good operations deficits. Provided further that under no other circumstances

may the Capital Acquisitions Fund be utilized for funding operations, except under the circumstances referenced in this paragraph.

(G) *Use of Budget Stabilization Fund.* No original or amended Operations Budget shall ever project operations expenses in excess of projected operations income; i.e. funds held in the Budget Stabilization Fund shall be retained for such purpose, and not used as a planned source of funding for budgeted operations expenses.

(H) *Expenditures from Capital Acquisitions Fund.* Except as referenced in (F) above, such expenditures shall require unanimous approval of the participating municipalities based upon the recommendation of the fire fighters to the Fire Board and/or the Fire Board to the participating municipalities.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.25 AREAS TO BE SERVED.

The following areas (collectively, the geographic boundaries of the District) shall be provided fire protection services by the District.

(A) The City of White Cloud.

(B) The Township of Everett.

(C) The Township of Lincoln.

(D) The Township of Wilcox

(E) Sections 1, 2, 3, 10, 11, 12, 13, 14, and those portions of Sections 4 and 9 which are located east of Wisner, the north one-half of Section 23, the east one-half of Section 25 and the north one-half and the southeast one-quarter of Section 24, Township of Sherman.

(F) Such other areas as hereafter may be designated on any mutual aid agreement which may be entered into with the District.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.26 FINANCIAL CONTRIBUTIONS.

(A) Subject to the Headlee Amendment provisions of Michigan law, the city shall pay to the Fire District, on an annual basis, a sum equal to 1.5 mills of the aggregate taxable value of taxable real and personal property, within the area of the city served.

(B) The amount stipulated above, or such larger amounts as agreed upon by all of the participating municipalities, shall be paid each year to the District within one month of the date set by the Fire Board for collection, and shall not be withdrawn. The Fire Board shall have no authority to levy any tax or to issue any type of bond in its own name, or in any way to indebt the participating municipalities except to enforce the financial contribution requirements of this paragraph. The city shall separately raise the necessary moneys to fund the Fire District in such manner as it sees fit, in accordance with all laws and regulations applicable to each municipality.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.27 COLLECTION FEES.

The Fire Board may collect fees for service.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.28 USE OF FUNDS.

Subject to § 31.26, the Fire Board shall pay all necessary and incidental costs of fire protection in the areas hereinbefore described, including, but without limitation, operating expenses, reserves for equipment replacement, equipment and property leases, volunteer fire fighter wages, expenses and mileage for the Chief, Assistant Chief and Deputy Chief, workers' compensation insurance, public liability and property damage insurance (in a face amount of not less than $2,000,000 in 1993 dollars), errors and omissions insurance for Fire Board members and Fire Department officers (in a face amount of not less than $2,000,000 in 1993 dollars) and any other necessary insurance deemed advisable by the Fire Board. If necessary, the foregoing insurance policies will be physically held for safekeeping by the City of White Cloud, but the cost thereof shall be paid by the Fire Board on the basis outlined herein.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.29 EXISTING MUTUAL AID AGREEMENTS.

Mutual aid agreements shall be negotiated by the Fire Board and approved by the governing bodies of the participating municipalities.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.30 EQUIPMENT.

All items and equipment purchased by the Fire Board shall be the property of the District. All equipment and personal property now used by the Fire District, whether previously purchased by the District or previously leased or transferred by participating municipalities for use by the District, are deemed the property of the District. Under no circumstances, including but not limited to the withdrawal of a participating municipality or expulsion of same, shall any equipment be returned to a municipality; nor shall any municipality be entitled to any repayment or compensation for such equipment.
(Ord. 61, passed 10-21-96; Am. Ord., passed 6-1-98; Am. Ord. 72, passed 12-18-00)

§ 31.31 LOCATION OF FIRE FIGHTING OPERATIONS.

(A) For the term of the Agreement, the Fire District shall lease the White Cloud Fire Station located at 1020 Wilcox Avenue from the city, for its operations, and shall pay therefore the annual sum of $1.00 per year.

(B) The following equipment and operations shall be conducted and/or stored at the White Cloud Fire Station in the city during the term of the Agreement:

(1) General trucks and equipment;

(2) General training and meeting area for fire fighters; and

(3) Center of general operations.

(C) Hereafter, the equipment and central operations may be moved to another location if approved by the vote of at least two-thirds of the Fire Board members as provided in § 31.19.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.32 CUSTODY OF FUNDS.

The Fire Board's funds shall be kept in the custody of the Fire Board and deposited by the Fire Board in a separate bank account. All disbursements shall be approved by the Fire Board and paid by checks signed by both the chairperson and treasurer. The treasurer shall make quarterly budget comparison reports to the Fire Board. The Fire Board may budget and authorize the Chief to spend up to a total of $1,500 for discretionary operating expenses per year without the need to have prior Fire Board approval for each item, according to the budgetary activity. At

the next Fire Board meeting, the bills for such discretionary spending shall be submitted to and approved by the Fire Board.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.33 WITHDRAWAL FROM FIRE PROTECTION AND MERGER AGREEMENT.

Should any participating municipality decide to withdraw from the District, such party must give the Fire Board notice in writing of its intention to do so at least 360 days prior to the effective date of such withdrawal. Such notice shall be served upon the secretary of the Fire Board.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.34 FAILURE TO PAY,

In the event a participating municipality becomes delinquent or refuses to pay the amounts herein specified in the manner herein specified, the Fire Board has the authority to refuse service to such defaulting municipality. The Fire Board must give notice in writing of its intention to refuse service at least 60 days prior to the effective date, which notice shall be served upon the clerk of the participating municipality by certified mail. In any event, the defaulting participating municipality shall remain liable for the delinquent sum owed.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.35 ANNEXATION - NEW MEMBERSHIP.

The Fire Board has the right to accept or reject any new township, incorporated village or city with the approval of the governing bodies of the participating municipalities. The proposed new member shall not become a participating municipality until and unless it duly executes the equivalent of the Fire Protection and Merger Agreement, as amended from time to time, and enacts the ordinances referred to in § 31.36.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.36 TERM OF FIRE PROTECTION AND MERGER AGREEMENT OF APRIL 1, 2001.

The Fire Protection and Merger Agreement of April 1, 2001, shall expire on April 1, 2006, unless terminated earlier as provided therein. Provided further that in the event of the failure of participating municipalities to either withdraw from the District at such time, or renew or otherwise extend the Agreement thereafter, the Agreement shall be deemed automatically renewed on a calendar quarter-to-quarter basis, until such Agreement is renewed or extended, or otherwise amended, or until a participating municipality signals its intention to no longer participate in the District.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.37 CONSTRUCTION OF AGREEMENT

The Agreement shall be construed liberally to effectuate the broad purposes hereinbefore set forth.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.38 PRIOR AGREEMENTS, BOARDS, AND ORDINANCES.

§§ 31.10 through 31.43 and the White Cloud Area Fire Department Amended Fire Protection Merger Agreement of April 1, 2001 shall supersede and replace all prior ordinances and agreements relative to the operation of the District.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.39 AMENDMENT.

The White Cloud Area Fire Department Amended Fire Protection Merger Agreement of April 1, 2001 shall not be amended except by written consent of all the governing boards of all participating parties.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.40 EFFECTIVE DATE.

§§ 31.10 through 31.42 shall be deemed effective one day after the date of publication, or such later date as may be required by law.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.41 AUDITS.

An annual financial audit shall be performed with respect to the District's financial affairs.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.42 DISPUTES AND ARBITRATION.

(A) Disagreements regarding the operation, administration, establishment, or maintenance of the District or Fire Board which may arise between the participating municipalities, and which cannot be resolved by mutual agreement within 90 days, shall be submitted to binding arbitration by professionally qualified arbitrators. The majority vote of the members of the governing body of one participant municipality shall be sufficient to initiate the arbitration procedure. The parties on each side of the dispute shall then appoint one arbitrator of its own choosing within 60 days. The two arbitrators thus selected shall in turn appoint a third and final arbitrator within 30 days. The third arbitrator shall not be a resident of any municipality involved in the dispute, or have any proprietary interest in any municipality involved in the dispute. Costs of the arbitration shall be borne equally by the parties on each side of the dispute. The final decision of the arbitration committee shall be presented to the parties within 60 days of their first meeting. Disagreements that are not acted upon within the time limit specified in these arbitration procedures shall be considered settled in the favor of the municipality which meets the criteria of the procedure. The above notwithstanding, if parties on each side of the dispute agree, a judge may arbitrate the dispute. Each decision of the judge shall be final and binding.

(B) Arbitration shall involve only ambiguous matters and matters involved in good faith disputes. Arbitration shall not be utilized for the following:

(1) Matters and votes clearly provided for in the Agreement;

(2) The outcome of a majority vote provided for herein;

(3) Matters arbitrated or mediated prior to the date of the Agreement.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

§ 31.43 TERMINATION.

The District, the Fire Board and the Agreement can be terminated at any time upon 365 days written notice if approved by the governing bodies of at least four-fifths of the participating municipalities. Such notice shall be served upon all participating municipalities. The chairman of the Fire Board shall forthwith call a special meeting, if necessary, for the purpose of determining the proper distribution of each participating municipality's share of the equipment or other assets controlled by the Fire Board. Such distribution shall give due consideration to the original ownership of all equipment and assets as well as annual contributions and any depreciating factors involved. If division of the equipment is not possible or practical, a cash equivalent may be paid. A judgment of the majority of the Fire Board members voting thereon shall be final and binding as to the amount and kind of distribution of property or cash to be paid to each participating municipality, except that the arbitration procedures provided for

herein may be utilized if necessary.
(Ord. 61, passed 10-21-96; Am. Ord. 72, passed 12-18-00)

CHAPTER 32: FINANCE AND REVENUE

Section

Special Assessments for Public Improvements

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Cross-reference:

Charter §§ 7.1 through 7.7
Sewers, see Ch. 50
Water, see Ch. 51
Streets and sidewalks, see Ch. 94

SPECIAL ASSESSMENTS FOR PUBLIC IMPROVEMENTS

§ 32.01 PURPOSE.

It is the purpose of this subchapter to encourage the development of the city by establishing a procedure for financing and constructing needed public improvements such as, but not limited to, sanitary sewers, storm sewers, curb, gutter and blacktop streets, water mains, parking lots, anti-pollution equipment and facilities and the like. All special assessments shall be made in accordance with the provisions of this subchapter.
(Ord. 27, passed 7-17-78)

§ 32.02 SPECIAL ASSESSMENT TO DEFRAY EXPENSE.

The expense of any public improvement that shall confer any land or premises special benefits in addition to those conferred upon the general public may be defrayed in whole or in part by a special assessment on the lands and premises so benefited.

(Ord. 27, passed 7-17-78)

§ 32.03 ADVISORY PETITIONS.

(A) The City Council, in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvements to be made, may request and receive a petition therefore, or may receive such a petition voluntarily presented, but in either event, such petition shall be advisory only and shall not be jurisdictional.

(B) All advisory petitions shall be addressed to the Council and contain a brief description of the improvement sought to be made and shall be signed by property owners only, whose signatures shall be followed by a brief description of the property owned by them. The signatures on such petitions shall be verified by the oath of one or more of the circulators of such petition, before filing.

(C) Advisory petitions shall be filed with the City Clerk who shall check them for correctness and if they are found to be in order he shall refer them to the City Manager who shall present them to the Council at its next regular or special meeting called for that purpose, together with his recommendations.
(Ord. 27, passed 7-17-78)

§ 32.04 PRELIMINARY ACTION BY COUNCIL.

Should the City Council determine that the public improvement mentioned in the advisory petition, or any other public improvement is advisable, it shall take the following action by resolution before any special assessment is ordered to be levied:

(A) It shall define the improvement with a reasonable degree of certainty.

(B) It shall determine the necessity therefore.

(C) It shall determine what portion of the cost shall be defrayed by special assessment and the basis on which said assessment shall be spread.

(D) It shall designate the district or lands and premises on which the special assessment shall be levied.

(E) It shall cause adequate plans and estimates of the cost thereof to be made and filed in the office of the City Clerk for public inspection.

(F) It shall designate a time and place for hearing objections to or suggestions concerning the improvement and the levying of the special assessment.

(G) It shall give notice of the proposed special assessment to each owner of or party in interest in property to be assessed, whose name appears upon the last local tax assessment records by mailing a notice thereof by first class mail addressed to such owner or party at the address shown on the tax records, at least 15 days before the date of such hearing.

(H) It shall give notice that it has taken the steps in this section recited and of the time and place of hearing by publishing a notice thereof in one or more newspapers in general circulation within the city for at least one day for two successive weeks prior thereto, provided that the time set for the hearing may not be less than three days after publication of last notice.
(Ord. 27, passed 7-17-78)

§ 32.05 PUBLIC HEARING.

At the time and place specified in the notice for the public hearing, as provided above, the City Council shall meet and hear any person to be affected by the proposed public improvement. The hearing may be adjourned from time to time by the Council and the Council may make any changes in the proposed work or assessment which shall seem reasonable or proper in view of any objection or suggestion or for any other reason which may appear to be for the best interest of the city; provided, that if the improvements intended to be made are enlarged upon or additions made to the district to be assessed, the same shall not be done until after another hearing is held pursuant to notices as required by original hearings.
(Ord. 27, passed 7-17-78)

§ 32.06 OBJECTION OF MAJORITY OF PROPERTY OWNERS; COUNCIL'S DETERMINATION OF NECESSITY TO OVERRIDE.

No such improvement shall be made if the owners of more than two-thirds of the property to be assessed shall object thereto in writing; provided, if the City Council shall determine and declare by a resolution unanimously adopted that the proposed improvement is for the Public Health, Welfare, or Safety, such improvement may be made, and such special assessment may be levied therefore, notwithstanding such objections thereto.
(Ord. 27, passed 7-17-78)

§ 32.07 AMOUNT OF ASSESSMENT; DETERMINATION.

(A) The whole amount to be levied upon the premises subject to such special assessment shall not be limited by the assessed valuation of the property subject to such special assessment.

(B) For the purpose of determining the amount of the special assessment, the cost of such improvement shall include but not be limited to the cost of plans, surveys, right-of-way, estimates, construction, labor, equipment rental inspection, legal expenses plus up to 15% of the actual cost of the project for engineering, administration and overhead.

(C) Special assessments may be made according to the frontage or benefits, or such other legal manner, as the Council shall determine. When made according to benefits, they shall be made by the City Council sitting as a Board of Special Assessors; when made according to frontage, the City Assessor shall prepare the assessment roll.
(Ord. 27, passed 7-17-78)

§ 32.08 RESOLUTION ORDERING ASSESSMENT.

At the conclusion of the public hearing aforesaid, the City Council shall:

(A) Determine the advisability of the proposed improvement and special assessment, and if determined advisable or necessary, the Council shall order the special assessment by resolution which shall determine whether it is to be done by contract, or force account, the share, if any, to be paid by the city at large, and whether the assessment is to be made by frontage, benefit or other legal manner.

(B) Designate the several lots or premises to be assessed, the amount of the assessment, if known, the number of installments if it is to be paid in installments, the rate of interest to be charged on the unpaid balance, and the name or number by which such assessment roll shall be known and referred to.
(Ord. 27, passed 7-17-78)

§ 32.09 DISTRIBUTION OF ASSESSMENT.

If the assessment is to be made according to frontage, each lot or parcel of land shall be assessed such relative portion of the whole amount to be levied as the frontage of such lot or parcel on the improvement bears to the whole frontage of all lots or parcels to be assessed, provided if by reason of the shape or size of any parcel such an assessment will be inequitable, the relative frontage may be changed by the Board of Special Assessors to meet those conditions. If the assessment is to be made according to benefits, each lot or parcel shall be assessed such relative portions of the whole sum to be levied as shall be proportionate to the estimated benefit resulting to such lot or parcel from the improvement.
(Ord. 27, passed 7-17-78)

§ 32.10 SPECIAL ASSESSMENT ROLL.

The special assessment roll shall contain an accurate description of each parcel of land in the special assessment district, the frontage on the improvement, if the assessment is to be made by frontage, the amount of the several installments when the assessment is payable in installments.
(Ord. 27, passed 7-17-78)

§ 32.11 ASSESSOR'S OR BOARD'S CERTIFICATE; NOTICE OF HEARING.

The Assessor or Board of Special Assessors, as the case may be, shall attach to such special assessment roll a certificate showing the action taken by him or them and shall thereupon file the roll with the City Clerk who shall give notice of the time and place when the Council shall review said roll and hear objections thereto by publishing such notice for at least one day for two successive weeks in one or more papers published and circulating in the city. The Clerk shall also mail notice of the hearing to each property owner listed in said roll at least ten days before the date of such hearing.
(Ord. 27, passed 7-17-78)

§ 32.12 HEARING ON ROLL; CONFIRMATION.

At the time appointed or at some adjourned hearing the City Council shall review the roll and shall hear and consider all objections thereto whether written or oral. The Council may make any corrections deemed necessary, or may refer the roll back to the assessor or Board of Special Assessors with directions to correct the same or to make a new roll as conditions may require. If the roll shall be approved, the Council shall pass a resolution confirming the same and the Clerk shall endorse thereon a certificate showing the confirmation and the date thereof.
(Ord. 27, passed 7-17-78)

§ 32.13 LIEN ESTABLISHED; WHEN PAYMENT DUE; INTEREST UPON DELINQUENCY.

On the confirmation of such roll the assessment levied thereon shall constitute a lien upon the respective lots or parcels of land and shall be a charge against the person to whom assessed until paid, and except as to future installments, shall be at once due and payable. All special assessments, whether payable in installments, or not, remaining unpaid more than 60 days after confirmation thereof shall at the expiration of said period bear interest at the rate determined by the Council from the date of confirmation.
(Ord. 27, passed 7-17-78)

§ 32.14 ENDORSEMENT BY MAYOR; COLLECTION BY TREASURER.

(A) Upon the confirmation of such roll the Mayor shall endorse thereon or attach thereto his warrant bearing the date, the date of confirmation and commanding the City Treasurer to collect the several sums therein assessed. In case any person named in said roll shall neglect or refuse to pay his assessment or interest on said assessment upon demand, the Treasurer may levy and collect the same by distress and sale of the goods and chattels of such person.

(B) Upon receiving any special assessment roll and warrant, the Treasurer shall proceed to collect the amounts assessed thereon and on all sums paid after the expiration of 60 days from the confirmation of the said roll, he shall collect interest at the rate specified in the resolution ordering said improvement, from the date of confirmation. Such interest shall be an additional charge upon the lot or premises assessed and against the person chargeable therewith, and shall be paid to the City Treasurer.
(Ord. 27, passed 7-17-78)

§ 32.15 CHANGE IN OWNERSHIP OF PROPERTY.

In case there shall be a change in the ownership in a portion of any of the lots or parcels described in said roll, the City Treasurer may divide the assessment and allow each portion to be paid by itself; in case of assessment by frontage, the division shall be made in proportion to the number of feet frontage; in case of assessment by benefits, it shall be made in proportion to the area of the respective portions.
(Ord. 27, passed 7-17-78)

§ 32.16 REPORT OF DELINQUENT ASSESSMENTS; LEVY ON CITY TAX ROLL.

Between May 15 and May 31 in each year, the City Treasurer shall make a return duly certified by him to the Assessor of all special assessments then in his hands on which annual installments are due and have remained unpaid more than 60 days from the date of the original confirmation of the roll and shall add thereto interest at the rate specified for the particular assessment roll on the unpaid balance from the date of confirmation of the roll to the July 1 following, and the Assessor shall levy and assess the same in a proper place on the city tax roll for that year.
(Ord. 27, passed 7-17-78)

§ 32.17 EFFECT OF INVALIDITY; RE-ASSESSMENT.

Whenever the City Council shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, the Council shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been made, or not, and whether any part of the assessment has been paid or not. All proceedings on such re-assessment and for the collection thereof shall be made in the same manner as provided for in the original assessment. If any portion of the original assessment shall have been paid and not refunded, it shall to that extent be deemed satisfied. If more than the amount re-assessed shall have been paid, the balance shall be refunded to the person making such payment.
(Ord. 27, passed 7-17-78)

§ 32.18 REASONS FOR INVALIDITY.

No special assessment shall be held invalid by any court by reason of the failure of the City Council to take any of the steps herein prescribed before the assessment is ordered, provided the notice of hearing hereinbefore prescribed shall have been given and the hearing actually held and no objections on the ground of such failure shall have been made; nor shall any such special assessment be held invalid by reason of any default of the city or its officers in the making of said assessment provided the notice of the confirmation of the assessment roll shall have been given and the hearing thereof held and such objection shall not have been raised or urged at such hearing.
(Ord. 27, passed 7-17-78)

§ 32.19 VACATION OF SPECIAL ASSESSMENT; EFFECT ON LIEN.

No judgment or decrees or any act of the City Council vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount as may be equitably charged against the same, or as by a regular mode of proceedings might have been lawfully assessed thereon.
(Ord. 27, passed 7-17-78)

§ 32.20 COLLECTION BY SUIT.

(A) At any time after 60 days after any special assessment has become due and payable, the same may be collected by suit in the name of the city against the person assessed by commencement of an action in any court having jurisdiction of the amount. In every such action a declaration upon the common courts for money paid shall be sufficient. The special assessment roll and the certificate of the confirmation thereof endorsed thereon and the warrant for the collection thereof shall be prima-facie evidence of the regularity of all the proceedings in making the assessment, and of the right of the city to received judgment therefore.

(B) The bringing of any such suit by the city shall not be deemed a waiver of the lien created by this subchapter and the special assessment or of the right to enforce the same in the manner provided therefore.
(Ord. 27, passed 7-17-78)

§ 32.21 COURT MAY RENDER JUDGMENT FOR AMOUNT PROPERLY CHARGEABLE.

If in such action it shall appear that by reason of any irregularity or informality the assessment has not been properly made against the defendant or the lot or premises sought to be charged, the court nevertheless on proof that the expense has been incurred by the city which is a proper charge against the defendant or the lot or premise in question, shall render judgment for the amount properly chargeable against such defendant or upon such lot or premises.
(Ord. 27, passed 7-17-78)

§ 32.22 ASSESSMENT BY WRITTEN CONTRACT.

In the event that all persons or property owners to be affected by any proposed improvement agree that such proposed improvement be made and that a special assessment be levied in connection therewith, the city may, in lieu of the procedures set forth in this subchapter, enter into a written contract with all of the persons or property owners affected thereby, which contract when properly approved and executed shall operate as a complete special assessment procedure and the assessment shall be made in accordance with such contract.
(Ord. 27, passed 7-17-78)

§ 32.23 SPECIAL ASSESSMENT BONDS; RE- ASSESSMENT OF ADDITIONAL COSTS; REFUNDS.

In cases where it is necessary for the city to issue special assessment bonds to finance the property owners' share of a public improvement, the city may hold the hearing required by this subchapter and spread the estimated cost of the proposed special assessment to provide security for said bonds. At such time as the public improvement is completed and actual costs plus a reasonable charge for engineering, overhead and administration charges are determined, the City Council may re-assess any additional cost in a supplemental roll following the same procedures as outlined in this subchapter. Should the costs be less than originally estimated and assessed, credit shall be given toward future installments and where assessment have been paid in full, cash refunds shall be made. However, should any refund be less than 5% of the amount special assessed, the refund shall not be refunded in cash but credited to the city general fund.
(Ord. 27, passed 7-17-78)

§ 32.24 AUTHORITY TO PROCEED WITH PUBLIC IMPROVEMENTS WHEN LOCAL FINANCING IS AVAILABLE.

It is also the intention of this subchapter to allow the City Council to proceed with a public improvement when local financing is available, and in accordance with the provisions of this subchapter, do the necessary construction by contract or force account, keeping accurate records of such costs incurred and prepare a special assessment roll in the usual manner based on the total cost plus a reasonable charge for engineering, administration and overhead. The total cost or such portion of the total cost as the City Council may determine shall then be

assessed equitably among the property owners involved in the special assessment district either on a frontage, benefit or other legal manner as provided for in this subchapter. In this situation or situations of this type, the assessor or Board of Special Assessors, as the case may be, will not prepare the special assessment roll until the correct figure to be spread is presented to him or them by the City Manager.
(Ord. 27, passed 7-17-78)

§ 32.25 DEDUCTIONS FROM COSTS OF SPECIAL ASSESSMENTS.

The City Council may make deductions from the costs of special assessment projects where it can be demonstrated that additional costs were incurred for the improvement for over-size or extra strength pipe, extra wide streets or extra heavy construction to provide additional capacity or service over and above what may be considered needed or normal for the neighborhood or district involved.
(Ord. 27, passed 7-17-78)

§ 32.26 APPROPRIATION OF MONEYS TO LOCAL IMPROVEMENT INTEREST AND SINKING FUND.

The City Council may from time to time appropriate moneys from the general fund to the Local Improvement Interest and Sinking Fund to provide a revolving fund to finance the property owner's share of special assessments.
(Ord. 27, passed 7-17-78)

CHAPTER 33: LOCAL OFFICERS' COMPENSATION COMMISSION

Section

33.01 Definition
33.02 Creation; composition; appointment and terms of members
33.03 Persons not eligible for membership
33.04 Compensation of members
33.05 Election of chairperson
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33.07 Determination of salaries of elected officials; effective date; expenses
33.08 Meetings and time of determination

§ 33.01 DEFINITION.

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

COMMISSION. The Local Officers' Compensation Commission created by § 33.02.
(Ord. 97-1, passed 3-17-97)

§ 33.02 CREATION; COMPOSITION; APPOINTMENT AND TERMS OF MEMBERS.

A Local Officers' Compensation Commission is hereby created for the city pursuant to M.C.L.A. § 117.5c. The Commission shall consist of five members who are registered electors of the city, appointed by the Mayor; subject to confirmation by a majority of the members elected and serving on the City Council. The term of office shall be five years, except that of the members first appointed, one each shall be appointed for terms of one, two, three, four and five years. Members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term.
(Ord. 97-1, passed 3-17-97)

§ 33.03 PERSONS NOT ELIGIBLE FOR MEMBERSHIP.

No member or employee of the legislative, judicial, or executive branch of any level of government or members of the immediate family of such member or employee shall be a member of the Commission.
(Ord. 97-1, passed 3-17-97)

§ 33.04 COMPENSATION OF MEMBERS.

The members of the Commission shall receive no compensation, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.
(Ord. 97-1, passed 3-17-97)

§ 33.05 ELECTION OF CHAIRPERSON.

The Commission shall elect a chairperson from among its members.
(Ord. 97-1, passed 3-17-97)

§ 33.06 QUORUM.

A majority of the members of the Commission constitutes a quorum for conducting the business of the Commission. The Commission shall not take action or make a determination without a concurrence of a majority of the members appointed and serving on the Commission.
(Ord. 97-1, passed 3-17-97)

§ 33.07 DETERMINATION OF SALARIES OF ELECTED OFFICIALS; EFFECTIVE DATE; EXPENSES.

The Commission shall determine the salary of each elected city official. The determination shall be the salary unless the City Council, by resolution adopted by two-thirds of the members elected to and serving on the Council, rejects it. The determination of the Commission shall be effective 30 days following its filing with the City Clerk unless rejected by the Council. 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.
(Ord. 97-1, passed 3-17-97)

§ 33.08 MEETINGS AND TIME OF DETERMINATION.

The Commission shall meet for not more than 15 session days in each odd numbered year and shall make its determination within 45 calendar days after its first meeting. As used in this section, ***SESSION DAYS*** means a calendar day on which the Commission meets and a quorum is present. The business which the Commission may perform shall be conducted at a public meeting of the Commission held in compliance with M.C.L.A. §§ 15.261 - 15.275. Public notice of the time, date, and place of the meeting of the Commission shall be given in the manner required by M.C.L.A. 15.261 et seq. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be made available to the public in compliance with M.C.L.A. §§ 15.231 - 15.246.
(Ord. 97-1, passed 3-17-97)

TITLE V: PUBLIC WORKS

Chapter

50. **SEWERS**

51. **WATER**

52. **WELLHEAD PROTECTION**

CHAPTER 50: SEWERS

Section

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50.55 Disposition of revenues

Cross-reference:

Special assessments for public improvements, see §§ 32.01 through 32.26
Water, see Ch. 51

GENERAL PROVISIONS

§ 50.01 OPERATION BY CITY.

It is hereby determined to be desirable and necessary, for the public health, safety and welfare of the city that the portion of the County Sanitary Sewage Disposal System No. 2 situated in the city to be operated by said city as lessees of the County Board of Public Works as a county agency under Public Act 185 of 1957, being M.C.L.A. §§ 123.731 through 123.786, as amended, on a public utility rate basis in accordance with the provisions of Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138, as amended.
(Ord. passed 9-2-80)

§ 50.02 DEFINITIONS.

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

REVENUES and ***NET REVENUES.*** Have the meanings as defined in Public Act 94 of 1933, § 3, being M.C.L.A. § 141.103, as amended.

THE SYSTEM. The city portion of the County Sanitary Sewage Disposal System No. 2 (White Cloud area) including all sewers, pumps, lift stations, treatment facilities, and all other facilities used or useful in the collection, treatment, and disposal of domestic, commercial, or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto, which may hereafter be acquired.
(Ord. passed 9-2-80)

§ 50.03 MANAGEMENT OF SYSTEM.

The system shall be and remain under the management, supervision and control of the County Agent, who may employ or designate such person or persons in such capacity or capacities as he deems advisable to carry out the efficient management and operation of the system. The County Agent will make such rules, orders, or regulations deemed advisable and necessary to assure the efficient management and operation of the system and to provide equitable charges for the services thereof.
(Ord. passed 7-20-81)

§ 50.04 OPERATING YEAR.

The system shall be operated on the basis of an operating year commencing on the first day of January and ending on last day of December next following.
(Ord. passed 9-2-80)

§ 50.05 SYSTEM RECORDS AND BUDGET.

(A) The Director shall maintain and keep proper books and records in which shall be made full and correct entries of all transactions relating to the system. Not later than April 1, after the close of each year, the Director or designated agent shall cause to be prepared an annual audit and operation report to insure the continuous use and update of the user charge system for each participating community (governmental unit) in the system.

(B) An annual budget, showing in detail the estimated costs of administration, operation and maintenance of the system for the next ensuing 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 Director prior to December 1 for the following year, which budget shall be subject to the approval of the County Agent.
(Ord. passed 7-20-81)

§ 50.06 MANDATORY SEWER CONNECTION.

It is hereby determined and declared that public sanitary sewers are essential to the health, safety and welfare of the people of the city. Except as expressly permitted below, all properties located within the city lying west of the White River shall hook to the sanitary sewer system and shall not utilize any other type of on-site disposal method. At such time that sanitary sewer services become available within the city lying east of the White River, connection to the system would become mandatory. All new construction using sanitary sewer shall hook up to the system when construction is completed or the use commences, as required by this chapter. All existing properties within the city which are lawfully utilizing an on-site disposal system and are not hooked up to the sanitary system may continue to use the on-site system until such time as the system fails as determined by the local Health Department and/or the sanitary system becomes available to the property. The White Cloud/Sherman Utilities Authority Board of Trustees may, at its discretion and for good cause shown, waive all or part of the hook-up charge for a particular property or development. This may only occur due to highly unusual circumstances, if it would not set a detrimental precedent and if it would not impair the financial well being of the sanitary system. Notification and enforcement of this section shall be in conformity with Public Act 368 of 1978, being M.C.L.A. §§ 333.12751 through 333.12758. (Ord. passed 9-2-80; Am. Ord. passed 11-15-82; Am. Ord. 69, passed 8-7-00) Penalty, see § 10.99

§ 50.07 SEWER CONNECTION SPECIFICATIONS.

All sanitary sewer systems connected directly or indirectly into the intercepting sewer or sewers of the County Sewage Disposal System No. 2 shall, prior to such connection, meet the following requirements:

(A) A test for water infiltration into the system shall be performed by the owner or contractor in accordance with procedures established by the County Agent. When the owner or contractor has determined that the system meets the following requirements for maximum infiltration, then he shall arrange for the results of such tests to be verified by the County Agent. Ground water infiltration at any time shall not exceed 500 U.S. gallons per inch of pipe diameter per mile of sewer per 24-hour period. It shall be the responsibility of the owner or contractor to make whatever corrections may be necessary to the system to meet the infiltration requirements prior to using the Sewage Disposal System No. 2 sewers. If, in the opinion of the County Agent, ground water conditions at the time of the test would not provide for a conclusive test of the extent of infiltration, then an exfiltration test shall be required. If an exfiltration test is determined to be necessary, the maximum exfiltration rate shall be the same as that permitted from infiltration.

(B) (1) Yard drains, catchbasins, downspouts, weep tile, perimeter drains, or any other structure used for collection and conveyance of stormwater. shall not be permitted to discharge into any sanitary sewer connected directly or indirectly into the Sewage Disposal System No. 2.

(2) Weep tile and/or perimeter drains may be connected to the building sewer from homes existing prior to January 1, 1979 if written approval is secured from the County Agent and the local municipality.

(C) (1) House connection sewer from lateral sewer in street or easement to within five feet from house shall be:

(a) Six-inch diameter C-200 vitrified sewer pipe with tylox (Type B), wedgelock (types 1 and 3) or amvit joints or other County Agency approved joints;

(b) Six-inch diameter Class 2400 Asbestos Cement Pipe with ringtite or County Agency approved joint; or

(c) Six-inch diameter, service strength, cast iron soil pipe with hot poured lead joint, or approved equal.

(2) House connection sewers should be six inches minimum diameter, however, four-inch pipe of comparable strength and joint material may be used if permitted by the local unit of government. All joints shall be tight and when tested for infiltration, shall not exceed 500 U.S. gallons, per inch of diameter, per mile, per

24 hours. All sewer lines within 50 feet of a private well and 75 feet of a semi-public well shall be cast iron soil pipe with hot poured lead joints.

(D) (1) Individual building sewers which are directly connected into the White Cloud-Sherman interceptor sewer, or existing White Cloud sewers shall conform to the requirements under divisions (B) and (C) of this section. A connection permit, for which there is a charge to be determined by the County Agent shall be obtained from the office of the County Agent before such connection is made. Prior to the issuance of such connection permit, the person obtaining such permit shall have obtained the written approval of the local unit of government. Connection shall be made in a workmanlike manner and in accordance with procedures established by the County Agent. The party to whom such a permit is issued shall be responsible for notifying the County Agent's office 24 hours in advance of the date and time when such a connection is made so that proper inspection of same can be made.

(2) Individual building sewers which are indirectly connected into Sewage Disposal System No. 2 shall conform to the requirements under divisions (B) and (C) of this section. A connection permit shall be obtained from the local unit of government or its agent, before such connection is made. Connections shall be made in a workmanlike manner in accordance with the procedures established by the County Agent and the local unit of government. The party to whom such a permit is issued shall be responsible for notifying the local unit of government or its agent, 24 hours in advance of the date and time when such a connection is used so that proper inspection of same can be made. If the permits are issued by the local unit of government, a fee may be charged by the County Agent for each permit issued, equivalent to the cost of data processing.

(E) (1) The crock to iron joint shall be sealed by an approved bituminous joint filler, encased in concrete to provide a watertight seal. The iron pipe inside the building shall be plugged and leaded and remain plugged and watertight until such time as the plumbing is carried on to the first floor, the basement backfilled and roof is on the building, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(2) It is recommended that the local unit of government require the licensing and bonding of persons making house connections.

(3) No requirements of the County Agent or permits issued hereunder by said Agent shall relieve the property owner of such complying with all the rules and regulations of the local unit of government, wherein such property is located, when such rules and regulations are not less restrictive than the requirements of the County Agent.
(Ord. passed 9-2-80; Am. Ord. passed 11-15-82) Penalty, see § 10.99

§ 50.08 STORMWATER DRAINS; CONNECTIONS AND HOOK-UPS.

(A) *Title.* This section shall be known as the “Stormwater Hook-up Ordinance of the City of White Cloud.”

(B) *Definition.* For the purpose of this section, ***STORMWATER DRAIN*** shall mean a sewer, drain or pipe owned or controlled by the city and which carries storm and surface waters and drainage, but which is not designed or intended to carry sewage or polluted industrial waste.

(C) *Permit.* No connection to or discharge into any stormwater drain owned or controlled by the city shall occur until a permit has been obtained from the city. The permit fee for the initial hook-up to any city stormwater drain, as well as any annual or periodic fee for the continued use of the stormwater drain, shall be set by the City Council from time to time by resolution. The specifications for any connection to the stormwater drain shall be approved by the city before the connection occurs. The connection shall be made under the immediate super-vision of the city or its designee. All costs and expenses incident to the installation, connection and maintenance of all private connections to the storm-water drain shall be borne by the property owner. The property owner shall indemnify and save the city harmless from all loss or damage that may directly or indirectly be occasioned by the installation of the private connection to a stormwater drain.

(D) *Connection fee.* The City Council shall charge a fee in the amount of $1,500 for the connection to stormwater drains within the city. ***STORMWATER DRAIN*** shall be defined as set forth in division (B) of this section. (Res. 93-10, passed 8-16-93)

(E) *Prohibited uses.* It shall be unlawful for any person to place, deposit or permit to be deposited any sewage, hazardous waste, toxic materials or industrial waste into any stormwater drain owned or controlled by the city. It shall also be unlawful for any person to utilize a stormwater drain owned or controlled by the city in violation of this section or any rules or regulations promulgated by the City Council.

(F) *Protection from damage.* No person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal stormwater drain or drainage system.

(G) *Revocation of permit.* The city may revoke the permit of any person to utilize a stormwater drain if that person refuses reasonable access to the city or its designee for purposes of inspection or monitoring the system or the person violates the conditions or requirements of the permit, this section or any rules or regulations of the city regarding the stormwater drain or drainage system.

(H) *Recovery of costs.* Any person discharging liquids into a stormwater drain who violates any provision of this section, a permit or any rule or regulation of the city regarding the stormwater drain or drainage system, or causes damage to or impairs the city's stormwater drainage system shall be liable to the city for any expense, loss or damage caused by such violation or discharge.

(I) *Penalty.* Any person who violates any provision of this section shall be guilty of a criminal misdemeanor punishable as provided in § 10.99. The city shall have the option of pursuing criminal prosecution and legal and/or equitable relief in a court of competent jurisdiction.
(Ord. 58, passed 8-16-93)

§ 50.09 INDUSTRIAL COST RECOVERY SYSTEM.

Recognizing that there are no existing industrial users as defined in 40 CFR 35.905 connected to or discharging to the sewage system known as the County Sanitary Sewage Disposal System No. 2 at the present time, it is hereby resolved that if in the future industrial users do discharge to said sewage system, industrial cost recovery systems will be extended at that time in accordance with all U.S. EPA regulations.
(Ord. passed 9-2-80)

§ 50.10 RULES AND REGULATIONS; AUTHORITY TO ESTABLISH.

(A) For the purposes of preventing, discontinuing or correcting any violations of this chapter, the County Agent may adopt and establish rules and regulations for the enforcement of this chapter.

(B) Rules and regulations adopted under this section may include, but are not limited to, imposing requirements upon industrial or commercial users to submit plans for the pre-treatment of wastewater, to install equipment to monitor the nature and quantity of the wastewater being discharged into the system, and/or to keep the records.
(Ord. passed 7-20-81)

§ 50.11 VIOLATION DECLARED A NUISANCE.

A violation of the provisions of this chapter shall be considered a public nuisance per se and any action authorized or permitted by law for the abatement of a public nuisance may be instructed by the County Agent in regard to such violation.
(Ord. passed 7-20-81)

§ 50.12 NOTICE OF VIOLATION; HEARING PROCEDURE.

(A) In addition to any remedies provided elsewhere in this chapter, whenever the County Agent has

reason to believe that any user has committed or is committing an offense covered by § 50.11 of this chapter, he may serve upon the user a written notice stating the nature of the alleged violation and describing the time for and the nature of the required correction.

(B) If the violation is not corrected as prescribed in the aforesaid notice, the County Agent may issue an order to the user to appear for a hearing and show cause why service should not be terminated.

(C) The aforesaid notice and order to show cause shall be served upon the user by personal service or in lieu thereof by certified mail, return receipt requested, to the user's last known address.

(D) The hearing shall be conducted by the County Agent, who shall render a written decision determining whether the user's service shall be terminated and stating reasons therefore. Admissibility of evidence at the hearing shall be within the discretion of the County Agent.

(E) The user shall be entitled to be represented at the hearing in person or by an attorney at his own expense and shall be entitled to examine witnesses for the County Agent and present evidence on his own behalf. A record shall be made of the proceedings, but such record need not be verbatim.

(F) The user whose service is terminated without prior hearing may request such a hearing as described in divisions (D) and (E) of this section, to permit him to show why his service should not have been terminated and should be resumed. Such requests shall be granted, but service will not be resumed unless so ordered by the County Agent.
(Ord. passed 7-20-81)

§ 50.13 WHITE CLOUD/SHERMAN UTILITIES AUTHORITY; ARTICLES OF INCORPORATION ADOPTED BY REFERENCE.

(A) The Articles of Incorporation of the White Cloud/Sherman Utilities Authority, and all amendments thereto, are hereby adopted by reference and incorporated into this code of ordinances as if fully set forth herein.

(B) Copies of the Articles of Incorporation of the White Cloud/Sherman Utilities Authority are available for public inspection during normal hours at the office of the City Clerk.
(Ord. passed 12-1-80; Am. Ord. passed 1-4-82)

SEWER USE REGULATIONS

§ 50.25 APPLICATION OF SUBCHAPTER.

Regulations for the use of public sewers and the installation and connection of building sewers, and the discharge of waters and wastes directly or indirectly into the County Sewage Disposal System No. 2 are set forth in §§ 50.26 through 50.35 of this chapter.
(Ord. passed 9-2-80)

§ 50.26 DEFINITIONS.

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

B.O.D. (denoting BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the

discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside of the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

CAPITAL CHARGES. Those amounts paid by each premises in each municipality connected to the system to pay the debt service requirements and capital expenditures to enlarge or improve the system.

COUNTY AGENT. The Newaygo County Board of Public Works.

DOMESTIC WASTES. A combination of the water-carried wastes from residences, commercial businesses, institutions and industrial establishments, together with such ground and surface waters as may be present. The treatment design characteristics are 200 mg/l of BOD_5 and 200 mg/l of suspended solids, pH range of 6.5 through 9.5 and fecal coliform range of 200/100 ml to 400/100/ml.

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

INDUSTRIAL WASTES. The liquid wastes from industrial, manufacturing processes, trade or business as distinct from sanitary sewage.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

NPDES or ***NATURAL 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 zone of the United States pursuant to Section 402 of the Federal Water Pollution Control Act, being 33 USC 1342.

OPERATION AND MAINTENANCE. The operation and maintenance of the wastewater collection sewers and treatment systems.

OPERATION AND MAINTENANCE COST. The proposed budget and the annual cost to maintain and operate the wastewater collection sewer and treatment systems. These costs shall include all the costs of materials, labor, field and office expenses, equipment rental, replacement cost of equipment, utilities, and any other costs attributable to the operation and maintenance of the wastewater system.

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

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

PROPERLY SHREDDED GARBAGE. Wastes from the preparation cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, and no particle greater than ½-inch in any dimension.

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

REPLACEMENT COST. That cost designated in the annual operation and maintenance budget allocated to the replacement of mechanical and electrical systems, equipment, pumps, and the like that are expected to be replaced over a 20-year life.

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

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

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

SEWER. A pipe or conduit for carrying sewage.

STORM DRAIN or ***STORM SEWER.*** A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently. (Ord. passed 9-2-80; Am. Ord. passed 7-20-81)

§ 50.27 PROTECTION FROM DAMAGE.

No unauthorized person shall maliciously, willfully, or negligently, break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the county or local system. (Ord. passed 9-2-80) Penalty, see § 10.99

§ 50.28 BUILDING SEWER AND CONNECTION REQUIREMENTS.

(A) *Permit authorized.* No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof, without first obtaining a written permit from the county.

(B) *Building sewer permits.*

(1) Individual building sewers which are directly connected into the White Cloud-Sherman interceptor or existing city collection sewers shall conform to the requirements under § 50.07(B) and (C) of the sewer regulations. A connection permit charge, in an amount to be determined by Council resolution from time to time, will be made by the County Agent, shall be obtained from the office of the County Agent before such connection is made. Prior to the issuance of such connection permit, the person obtaining such permit shall have obtained the written approval of the local unit of government. Connection shall be made in a workmanlike manner and in accordance with procedures established by the County Agent. The party to whom such a permit is issued shall be responsible for notifying the County Agent's office 24 hours in advance of the date and time when such a connection is made so that proper inspection of same can be made.

(2) Individual building sewers which are indirectly connected into Sewage Disposal System No. 2 shall conform to the requirements under § 50.07(B) and (C) of the sewer connection regulations. A connection permit shall be obtained from the local unit of government or it’s Agent, before such connection is made. Connection shall be made in a workmanlike manner and in accordance with the procedures established by the County Agent and the local unit of government. The party to whom such a permit is issued shall be responsible for notifying the local unit of government or its Agent, 24 hours in advance of the date and time when such a connection is made so that proper inspections of same can be made. If the permits are issued by the local unit of government, a fee shall be charged by the County Agent for each permit issued, equivalent to the cost of data processing.

(C) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the county or Agent from all loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) A separate and independent building sewer shall be provided for every building.

(E) The size, slope alignment, material of construction of a building sewer, and the methods to be used in excavating, placing of pipe, jointing, testing and backfilling the trench, shall all conform to the regulations and

standard specifications of the County Sewage Disposal System No. 2, and other applicable rules and regulations of the state or the local unit of government.

(F) Whenever possible, the building sewer should be brought to the building at an elevation below the basement floor. In all buildings, in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(G) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly to a public sanitary sewer.

(H) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the county and the local unit of government.

(I) Weep tile and/or perimeter drains may be connected to the buildings sewer from homes existing prior to January 1, 1979, if written approval is secured from the County Agent and the local municipality.
(Ord. passed 9-2-80) Penalty, see § 10.99

§ 50.29 LIMITATION ON WASTEWATER DISCHARGES IN GENERAL.

No person shall discharge, convey or permit to be discharged or conveyed into the system any waste-water of such character or quantity that it will:

(A) Deleteriously affect the system or carry through the system untreated, any pollutant regulated by the NPDES permit issued to the County Agency;

(B) Constitute a hazard to human or animal life or to any watercourse receiving the treated effluent or the system;

(C) Violate any pre-treatment standards hereinafter established;

(D) Cause the system to violate its NPDES permit or other applicable receiving water standard.
(Ord. passed 7-20-81) Penalty, see § 10.99

§ 50.30 DISCHARGE OF UNPOLLUTED WATERS.

(A) No person shall discharge or cause to be discharged any stormwater, surface water, grounds water, roof runoff, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process water to any sanitary sewer.

(B) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the County Agent and the local unit of government. Industrial cooling or unpolluted process waters may be discharged, upon approval of the County Agent and the local unit of government to a storm sewer, or natural outlet.
(Ord. passed 9-2-80) Penalty, see § 10.99

§ 50.31 PROHIBITED DISCHARGES.

(A) No person shall discharge, or cause to be discharged any of the following described waters or wastes to any public sewers.

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(2) Any water or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity (either singly or by interaction with other wastes) to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant (including, but not limited to cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewers).

(3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewer works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, punch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, and the like, either whole or ground by garbage grinders.

(B) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the County Agent or the local unit of government, that such water can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can endanger life, limb, or public property or constitute a nuisance.

(1) Any liquid or vapor having a temperature higher than 150° F. (65° C.).

(2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32° F. and 350° F.

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage shredder equipped with a motor of ¾ horse-power or greater shall be subject to the review and approval of the County Agent and the local unit of government.

(4) Any waters or wastes containing strong acid iron, pickling wastes or concentrated plating solutions, whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the County Agent or the local unit of government for such materials.

(6) Any waters or wastes, containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the County Agent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the County Agent in compliance with the applicable state or federal regulations.

(8) Any wastes or waters having a pH in excess of 9.5.

(9) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids (such as but not limited to Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate).

(b) Excessive discoloration (such as but not limited to dye wastes, vegetable tanning solutions).

(c) Unusual B.O.D. chemical oxygen demand or chlorine requirement in such quantities as to constitute a significant load on the sewage treatment works.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by sewage treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to receiving waters.
(Ord. passed 9-2-80) Penalty, see § 10.99

§ 50.32 COUNTY AGENT'S AUTHORITY AS TO DANGEROUS DISCHARGES.

(A) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which contain the substances or possess the characteristics enumerated in § 50.31(B) of this subchapter, and which in the judgment of the County Agent or the local unit of government, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the County Agent may:

(1) Reject the wastes.

(2) Require pre-treatment to an acceptable condition for discharge to the public sewers.

(3) Require control over the quantities and rates of discharge.

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes and sewer charges.

(B) If the County Agent permits the pre-treatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the County Agent.
(Ord. passed 9-2-80)

§ 50.33 CONTROL MANHOLE; MEASUREMENTS, TESTS, AND ANALYSES.

(A) When required by the County Agent or the local unit of government, the owner of any property serviced by building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such a manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the County Agent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(B) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in these regulations shall be deter-mined in accordance with “Standard Methods for the Examination of Water and Sewage,” and shall be determined at the control manhole provided for, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which a building sewer is connected.
(Ord. passed 9-2-80) Penalty, see § 10.99

§ 50.34 SPECIAL AGREEMENTS.

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the County Agent and the local unit of government and any industrial waste of unusual strength or character may be accepted by the county for treatment, subject to payment therefore, by the industrial concern, subject to the industrial cost recovery ordinance.

(Ord. passed 9-2-80)

§ 50.35 POWERS AND AUTHORITY OF INSPECTORS.

(A) The County Agent and other duly authorized employees of the County Agent or the local unit of government bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing.

(B) While performing the necessary work on private properties referred to in division (A) of this section, the duly authorized employee of the county or the local unit of government, shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to such employees and the county or the local unit of government shall indemnify the company against loss or damage to its property by such employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.
(Ord. passed 9-2-80) Penalty, see § 10.99

RATES AND CHARGES

§ 50.45 SEWER USE CHARGES.

Sewer use charges to each single-family residential premises served by the system shall be in the amount prescribed by the City Council from time to time by resolution, and as specifically set forth in § 50.47(C) of this subchapter. Each premises other than a single-family residence shall pay sewer use charges in the amount prescribed above multiplied by a factor representing a ratio of sewage use by such class of premises to normal single-family residential sewage use (that is, equivalent user factor). The City Council shall adopt and revise from time to time by resolution a schedule of such ratios (that is, table of unit factors), as specifically set forth in § 50.48 of this subchapter; provided however, that the minimum monthly charge to any premises or business shall be that prescribed for a single-family residential premises.
(Ord. passed 9-2-80; Am. Ord. passed 5-17-93)

§ 50.46 CONNECTION CHARGES.

Connection charges shall be in the amount prescribed by the City Council from time to time by resolution, and as specifically set forth in divisions (A) through (E) of this section.

(A) *Connection after July 31, 1993 to sanitary sewers constructed after December 31, 1992*. Each single-family residential connection to the sewage system made after July 31, 1993 to sanitary sewers constructed after December 31, 1992 shall be charged $2,500 for the cost of connection to the sewage system. A cash down payment of $750 is due prior to connection to the sewage system and the balance of $1,750 may be paid in installments over 30 years with interest at 6%.

(B) *Connection after May 31, 1990 to sanitary sewers constructed before January 1, 1993*. Each single-family residential connection to the sewage system made after May 31, 1990 to sanitary sewers constructed before January 1, 1993 shall be charged $1,510 for the cost of connection to the sewage system. A cash down payment of $750 is due prior to connection to the sewage system and the balance of $760 may be paid in installments over 30 years with interest at 6%.

(C) *Connection before June 1, 1990*. Each single-family residential connection to the sewage system made before June 1, 1990 shall be charged $1,510 for the cost of connection to the sewage system. A cash down payment of $750 is due prior to connection to the sewage system and the balance of $760 may be paid in installments over 40 years with interest at 6%.

(D) *Connection during the first 12 months that sewer is operational*. Each single-family residential connection to the sewage system made during the first 12 months that the sewer is operational shall be charged

$1,060 for the cost of connection to the sewage system. A cash down payment of $300 is due prior to connection to the sewage system and the balance of $760 may be paid in installments over 40 years with interest at 6%.

(E) *Existing customers.* All existing sewage customers in the White Cloud system are automatically connected to the sewage system and shall be assessed $760 for the cost of construction of the new sewage system which may be paid in installments over 40 years with interest at 6%.
(Ord. passed 9-2-80; Am. Ord. passed 11-15-82; Am. Ord. passed 5-21-90; Am. Ord. passed 9-20-93)

§ 50.47 RATES AND CHARGES ESTABLISHED; SCHEDULE.

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

CAPITAL CHARGE. The charge established to reduce the balance of the premises connection charge over the prescribed period.

USER CHARGE. The average prorated annual operation, maintenance, and debt servicing expenses of the sewers and treatment facilities per single unit (that is, Equivalent User Factor).

(B) *Individual monthly charges.*

(1) *Metered non-single-family residential monthly charges.*

(a) The capital charge shall be in the amount prescribed by the city from time to time by resolution, and as specifically set forth in division (C) of this section.

(b) The total charge equals the prescribed capital charge plus the product of the prescribed single family residential user charge multi-plied by the assigned equivalent user factor (from the table of unit factors), plus the prescribed additional usage charge for water used in excess of the product of the water usage allowance multiplied by said assigned equivalent user factor, plus industrial pollutant loading charges, if any.

(2) *Unmetered and single-family residential monthly charges.*

(a) The capital charge shall be in the amount prescribed by the city from time to time by resolution, and as specifically set forth in division (C) of this section.

(b) The total charge equals the capital charge plus the product of the prescribed single-family residential user charge multiplied by the assigned equivalent user factor (from the table of unit factors).

(3) *Industrial pollutant loading charges.* Industrial pollutant loading charges shall be in the amount prescribed by the City Council from time to time by resolution, and as specifically set forth in division (C) of this section.

(C) *Schedule of rates and charges.*

(1) *Capital charge.*

(a) Connections after July 31, 1993 served by sanitary sewers constructed after December 31, 1992 with down payment as required and paying capital by installments shall pay a capital charge of $10.56 per month.

(b) Connections after May 31, 1990 served by sanitary sewers constructed before January 1, 1993 with down payment as required and paying capital by installments shall pay a capital charge of $4.59 per month.

(c) Connections before June 1, 1990 with down payment as required and paying capital by installments shall pay a capital charge of $4.21 per month.

(d) New connections with connection charges paid in full; existing connections with connection charges paid in full shall pay no capital charge.

(2) *Single-family residential user charge.* The single-family residential user charge shall be $15.44 per month.

(3) *Additional usage charge.* The additional usage charge shall be $.00125 per gallon.

(4) *Water usage allowance.* The water usage allowance shall be 10,667 gallons per month.

(5) *Industrial pollutant loading charges.*

(a) $.10 per pound for BODs in excess of 200 mg/l.

(b) $.12 per pound for suspended solids in excess of 200 mg/l.

(6) *Late payment charge.* The late payment charge shall be 1.5% per month computed on the past due unpaid balance.
(Ord. passed 7-20-81; Am. Ord. passed 5-21-90; Am. Ord. passed 5-17-93; Am. Ord. passed 9-20-93)

§ 50.48 TABLE OF UNIT FACTORS.

(A) A table of unit factors (that is, equivalent user factors) shall be prescribed and modified by the City Council from time to time by resolution, and shall be specifically set forth below.

(B) (1) The table of unit factors shall be used in computing basic sewer usage charges for non-single-family residential connections.

User Type	***Unit Factor***
Apartment building	.50 per apartment
Barber shop	.08 per chair
Bars	.06 per seat
Beauty shops	.30 per booth
Boarding houses	.20 per person
Boarding schools	.35 per person
Bowling alleys (no bars, no lunch facilities)	.20 per alley
Car wash (automatic)	10.00 per production line
Car wash (self-serve)	1.50 per stall
Car wash (roll-over)	2.00 per stall
Churches	1.50 per 150 seats or less 2.50 more than 150 seats
Cleaners (pick-up only)	.06 per employee
Cleaners (pressing facilities)	1.25 per press
Clinics (minimum 1 per profession)	.65 per doctor
Convalescent homes	.30 per bed
Factories (exclusive of excessive use)	.50 per 1,000 sq. ft.
Fraternal organizations (members only)	1.25 per hall

Fraternal organizations (members and rentals)	2.50 per hall
Grocery stores & supermarkets	1.10 per 1,000 sq. ft.
Hospitals	1.40 per bed
Hotels (private baths, 2 per room)	.25 per room
Laundry (self-serve)	.50 per washer
Multiple-family residence	1.00 per unit
Mobil home park	.75 per pad
Motels	.35 per bed
Office building	.60 per 1,000 sq. ft.
Public institutions (other than hospitals)	.40 per employee
Restaurants	
(Auxiliary rooms)	.03 per seat
(Dining rooms, no drinks)	.075 per seat
(Dining rooms, with drinks)	.09 per seat
Rooming houses (no meals)	.167 per person
Schools	.60 per classroom
Service stations	.30 per pump
Snack bars	.10 per seat and/or stall
Store (other than specifically listed)	.20 per employee
Tourist courts (individual bath units)	.27 per unit
Trailer parks (central bath houses)	.35 per trailer space
Trailer parks (individual baths, seasonal)	.50 per unit
Warehouses	.10 per 1,000 sq. ft.

(2) One unit is equivalent to a household of three and one-half persons using 100 gallons of water per person per day (that is, 350 gpd). A single hook-up shall have a minimum assigned equivalent user factor of 1.0.
(Ord. passed 9-2-80; Am. Ord. passed 9-20-93)

§ 50.49 SPECIAL RATES.

For miscellaneous or special services for which a special rate shall be established, such rates shall be fixed by the City Council.
(Ord. passed 9-2-80)

§ 50.50 BILLING PROCEDURE.

Bills for sewer disposal services will be rendered quarterly by the White Cloud/Sherman Utilities Authority on or before the tenth day of March, June, September, and December for the calendar quarter ending on the last day of said month, payable without penalty on or before the last regular business day preceding the sixth day of the month next following. The late payment charge shall be as set forth in §§ 50.47(C) (6) and 50.52(C) of this chapter.
(Ord. passed 9-2-80; Am. Ord. passed 7-20-81; Am. Ord. passed 11-12-90; Am. Ord. passed 5-17-93)

§ 50.51 WHERE BILLS ISSUED.

The bills for sewage disposal service will be issued at the White Cloud/Sherman Utilities Authority, 60 Baseline, White Cloud, Michigan.
(Ord. passed 4-16-90)

Cross-reference:
Where water bills issued and collected, see § 51.52

§ 50.52 CHARGES TO CONSTITUTE LIEN; DISCONTINUANCE OF SERVICE FOR NONPAYMENT; COLLECTION PROCEDURE.

(A) All charges for services rendered are now and shall in the future constitute a lien on the property at which service was rendered, undiminished by any provision or covenant of any lease, rental agreement or other contract of any kind. As such, responsibility for the payment of charges for services rendered shall rest with the property owner, regard-less of any initial billing to tenants, lessees, or previous owners or occupants. Charges six months or more past due may be added to the tax bill of the property served.

(B) In addition to any other lawful enforcement methods, the payment of charges for sewage disposal service to a premises may be enforced by discontinuing either the water service or the sewage disposal service to the premises, or both. (M.C.L.A. § 141.121)

(C) There shall be late fees added to the past due unpaid balance of sewer bills at the rate of 1.5% per month.

(D) The collection procedure shall apply payments for sewer billings as follows:

(1) Any payment shall be applied first to capital charges.

(2) Any payment balance shall then be applied to sewer usage charges.

(3) Any payment balance shall then be applied to the late fees on past due sewer billings.
(Ord. passed 9-2-80; Am. Ord. passed 10-17-88; Am. Ord. passed 10-15-90; Am. Ord. passed 5-17-93)

§ 50.53 NO FREE SERVICE.

No free service shall be furnished by said system to any person, firm or corporation, public or private, or to any public agency or instrumentality.
(Ord. passed 9-2-80) Penalty, see § 10.99

§ 50.54 RATES TO COVER SYSTEM-RELATED EXPENSES; REVISION.

The rates hereby fixed are estimated to be sufficient to provide for the payment of expenses of administration and operation, such expenses for maintenance of the said system as are necessary to preserve the same in good repair and working order, to provide for the payment of the contractual obligation of the city to the county pursuant to the aforesaid contract between said county and the city as the same become due, and to provide for such other expenditures and funds for said system as this chapter may require. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts.
(Ord. passed 9-2-80)

§ 50.55 DISPOSITION OF REVENUES.

(A) The revenues of the system shall be set aside, as collected, and deposited in a separate depository account in the First State Bank, White Cloud, Michigan, a bank duly qualified to do business in the state, in an account to be designated System No. 2, City of White Cloud Receiving Fund (hereinafter for brevity, referred to as the “Receiving Fund”) and said revenues so deposited shall be transferred from the Receiving Fund periodically in the manner and at the times hereafter specified.

(1) *Operation and Maintenance Fund.* Out of the revenues in the Receiving Fund there shall be first set aside quarterly into a depositary account, designed Operation and Maintenance Fund, a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the system and

such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

(2) *Contract Payment Fund.* There shall be established and maintained a depository account to be designated Contract Payment Fund, which shall be used solely for the payment of the city's obligations to the county pursuant to the aforesaid contract. There shall be deposited in said fund quarterly, after requirements of the Operation and Maintenance Fund have been met, such sums as shall be necessary to pay said contractual obligations when due. Should the revenue of the system provide insufficient for this purpose, such revenues may be supplemented by any other funds of the city legally available for such purpose.

(3) *Replacement Fund.* There shall next be established and maintained a depository account designated Replacement Fund, which shall be used solely for the purpose of making major repairs and replacements to the system if needed. There shall be set aside into the said fund, after provision has been made for the Operation and Maintenance Fund and the Contract Payment Fund, such revenues as the City Council shall deem necessary for this purpose.

(4) *Improvement Fund.* There shall next be established and maintained an Improvement Fund for the purpose of making improvements, extensions and enlargements to the system. There shall be deposited into said Fund, after providing for the foregoing fund such revenues as the City Council shall determine.

(5) *Surplus moneys.* Moneys remaining in the Receiving Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing funds, may, at the option of the City Council, be transferred to the Improvement Fund, or used in connection with any other project of the city reasonably related to purposes of the system.

(6) *Bank accounts.* All moneys belonging to any of the foregoing funds of accounts may be kept in one bank account, in which event the moneys shall be allocated on the books and records of the city within this single bank account, in the manner above set forth.

(B) In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, any moneys and/or securities in other funds of the System, except sums in the Contract Payment Fund derived from tax levies, shall be transferred to the Operation and Maintenance Fund, to the extent of any deficit therein.

(C) Moneys in any fund or account established by the provisions of this chapter may be invested in obligations of the United States of America in the manner and subject to the limitations provided in Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138, as amended. In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which said purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.
(Ord. passed 9-2-80)

CHAPTER 51: WATER

Section

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GENERAL PROVISIONS

§ 51.01 DEFINITIONS.

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

CUSTOMER. The owner of the property involved.

METER. The measuring device which measures or records the flow of water through the device and shall not include any portion of the water service pipe connected to the device.

PERSON. Any individual, partnership, corporation, association or other entity.

WATER CONNECTION. That part of the city's water distribution system connecting the water main to the shut-off box.

WATER MAIN. That part of the city's water distribution system located within easement lines or streets designated to supply more than one water connection, excluding any and all portions of the water service pipe located between the shut-off box and the meter on the private premises regardless of whether portions of such water service pipe are located within the city's easement lines or not.
(Ord. 94-60, passed 2-21-94)

§ 51.02 CHAPTER TO BE CONTRACT WITH CUSTOMERS.

The provisions of this chapter, as amended, (as well as all rules, regulations and resolutions adopted hereunder), shall be considered a part of the contract with every person who shall take water furnished by the city, and each and every person so served shall be considered as having expressed his or her consent to be bound thereto.
(Ord. 94-60, passed 2-21-94)

§ 51.03 WATER SERVICE CONSTRUCTION IN ACCORDANCE WITH SPECIFICATIONS.

All water service construction shall be in accordance with specifications set by resolution of the City Council and such specifications shall be on file in the City Engineer's Office.
(Ord. 94-60, passed 2-21-94)

§ 51.04 MANDATORY HOOK-UP; PERMIT REQUIRED.

Except as expressly permitted below, all properties located within the city utilizing water or sewer shall hook up to the city's water system and shall not utilize water from any other source for any purpose. All existing properties within the city which are lawfully utilizing well water and which are not hooked up to the city's water system as of the effective date of this chapter may continue to utilize such well water until and unless hook up to the city's water system is required by a future ordinance amendment (if any). All new construction or new uses utilizing sewer or water shall hook up to the city's water system when construction is completed or the use commences and as otherwise required by this chapter. A private well (including wells existing on the effective date of this chapter) may be used for lawn, garden or other non-potable (that is, not for human consumption) uses, but only if a permit is

obtained from the city. At such time as any request is made to hook up to any existing water line in the city and the applicant or property owner has not previously paid or been assessed a hookup charge for water for that property or use, a hookup charge shall be paid to the city prior to the issuance of any hookup permit. The City Council may, at its discretion and for good cause shown, waive all or part of the hookup charge for a particular property or development due to highly unusual circumstances, if it would not set a detrimental precedent and if it would not impair the financial well-being of the city's water system. No hookup to the city's water system shall occur until the city has issued a hookup permit.
(Ord. 94-60, passed 2-21-94; Am. Ord. passed 4-18-94)

§ 51.05 TAPS; PERMIT REQUIRED.

No tap shall be made at the mains and no water shall be utilized from any main until and unless a permit shall have been obtained from the city or its authorized agent in writing. No tap shall be made by any person other than an authorized agent of the city. All applications for such permits shall be made at least two days prior to the date on which the tap is to be made.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.06 APPLICATION FOR SERVICE; REFUSAL FOR BILLS IN ARREARS.

If an applicant, at the time of making application for service, is in arrears on any bill due the City Water Department or the Sewer Department, water supply will be refused until such arrearages are paid in full, nor will service be granted to an agent or tenant of anyone in arrears.
(Ord. 94-60, passed 2-21-94)

§ 51.07 WASTE OF WATER PROHIBITED.

Excessive or unnecessary waste of water, whether by carelessness or defective or leaky plumbing fixtures, is strictly prohibited. For disregard or for repeated violation of this requirement, the water may be turned off by the city.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.08 SALE OF WATER BY CUSTOMER OR USER PROHIBITED.

No water shall be sold by any customer or user except the city itself. All water shall be taken or used through the service pipes under the jurisdiction of the City Council or authorized city official, and no connection through which water may pass from one property to another shall exist, even though the ownership of both properties or premises may be the same.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.09 SHUT-OFF OF WATER FOR PURPOSES OF REPAIR AND THE LIKE; LIABILITY OF CITY.

The city reserves the right at any time without prior notice to shut off the water and to decrease or increase the pressure for the making of repairs, extensions, or other purposes whatsoever, and the city shall not be held liable for any damage or con-sequence arising therefrom.
(Ord. 94-60, passed 2-21-94)

§ 51.10 INTERRUPTED WATER SERVICE; CLAIMS AGAINST CITY INVALID.

No claim shall be valid if made against the city or any official or agent thereof for reason of interrupted water service.
(Ord. 94-60, passed 2-21-94)

§ 51.11 UNAUTHORIZED TURN-ON OF WATER.

Where the water has been turned off by the city for any reason, no person or persons, except authorized employees or agents of the city, may turn it on again. When this rule is violated, the person or persons so doing shall be liable for the penalties hereinafter provided, and the water may be shut off by the city at the stop at the main. In such case, the owner of the premises shall, before the water is turned on again, pay in advance such charges as the city may require by resolution.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.12 REGULATION OF SPRINKLING AND OTHER WATER USE.

The use of water for sprinkling, filling swimming pools or any other purposes shall at all times be subject to the express condition that the city may, at any time, when it shall determine the condition of the public water supply system demands it, limit the days and/or the times of day during which water or hoses may be used for sprinkling, filling swimming pools or any other purpose, or the city may forbid the use of water for such purposes, for any period of time deemed necessary.
(Ord. 94-60, passed 2-21-94)

§ 51.13 INTERFERENCE WITH VALVE, WATER MAIN, OR FIRE HYDRANT PROHIBITED.

No person shall, without an express permit from the City Council or its authorized agent, open or interfere in any manner with any street valve, water main or fire-hydrant.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.14 FIRE HYDRANTS; PAYMENT FOR BY CITY; UNAUTHORIZED USE.

(A) The city shall pay for each city fire hydrant connected to the water system for fire protection as may be required by water bonding ordinances or law, if any. For all connections maintained at any private premises for fire protection purposes, a readiness to serve charge shall be made and collected according to the size of connection. Any loss or damage to the hydrant, operating nut or wrench will be charged to the applicant for service from the hydrant.

(B) No person, except an employee of the city in the performance of his or her duties, shall open or use any fire hydrant except in case of emergency, without first securing permission from the city and paying such charges as may be required.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.15 DESIRE TO DISCONTINUE; NOTIFICATION OF WATER DEPARTMENT.

All persons, firms or corporations who may desire to discontinue the use of water shall notify the city. Upon failure to make such notice, they shall be charged regular water rates until such notice is given.
(Ord. 94-60, passed 2-21-94)

§ 51.16 CROSS-CONNECTIONS.

No person, firm or corporation shall install, maintain or permit the installation or maintenance of any cross connection between the water supply of the city and any other source of water supply.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.17 PLUMBERS TO BE LICENSED.

Any plumber who may desire to do business in connection with the city's water system shall be a licensed plumber under the laws of the state.
(Ord. 94-60, passed 2-21-94)

METERS

§ 51.30 SERVICE CONNECTIONS METERED.

All service connections and premises using water shall be metered, except hydrants on the city streets or buildings on city property where excepted by the city.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.31 OWNERSHIP AND CONTROL OF CITY; TAMPERING PROHIBITED; CUSTODIAN OF METER SEALS.

(A) *Meters owned by city.* All meters will be supplied, installed and owned by the city, and shall be installed and maintained in accordance with this chapter and all applicable city rules and regulations. The property owner or applicant shall pay any and all charges in connection with the installation of meters and in such amount as the city may determine from time to time by resolution.

(B) *Water meters under control of the city.* Water meters shall be under the exclusive control of the city or its authorized employee at all times, and no person, firm or corporation shall break the seal of a meter, tamper with a water meter, or its connections, or in any way interfere with the operation of a water meter, except under the direct supervision of said city employee.

(C) *Custodian of meter seals.* The city shall be the official custodian of the sealing device and meter seals.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.32 SIZE AND LOCATION.

(A) The city shall determine the proper size of meters. The size of meter granted shall be in accordance with the estimated water consumption.

(B) Meters shall be located as determined by the city and shall be set in a convenient place, for easy access, near the entrance of the service pipe, located so as to control the entire water supply. Further-more, remote readers may be required by the city where:

(1) A meter must be replaced;

(2) Property is sold or otherwise transferred resulting in a change of water customer; or

(3) There is new construction desiring water service.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.33 METER PITS; RESPONSIBILITY OF PROPERTY OWNERS; INDEMNIFICATION.

(A) *Responsibility for meter pit.* Where a meter shall be set in a meter pit, such pit shall be built at the expense of the owner of the premises serviced by the meter. When the meter pit falls into disrepair, such condition shall be reported to the city at once. The pit shall be repaired to the satisfaction of the city at the owner's expense.

(B) *Meter pits in street; indemnification.* Any person whose property is serviced by a water meter which has been installed in a meter pit in a street which is adjacent to or part of his or her premises shall be responsible for all repairs to said meter pit and shall indemnify and save the city harmless against and from all costs, liability or damages to it resulting from such meter pit being defective or out of repair.
(Ord. 94-60, passed 2-21-94)

§ 51.34 PROTECTION FROM INJURY; NOTIFICATION OF WATER DEPARTMENT UPON DAMAGE OR FAILURE.

(A) *Protect meter from injury.* The customer shall take all reasonable and proper precautions to protect the meter from injury, frost, damage from hot water or steam, heat or any violence whatever, and the owner of the premises will be held liable for all loss or damage to the city resulting from the failure to properly care for and protect each meter.

(B) *Damage to meter; failure; notification of Water Department.* In case of damage to a meter or failure of the meter to register properly, the owner of the premises shall immediately notify the city, or its authorized agent, in which case the meter shall be repaired or replaced by an accurate one. The charges for water during such periods will be on the basis of ordinary use under similar conditions before the meter was affected.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.35 TESTING OF METERS; DEPOSIT; ADJUSTMENT IN WATER BILLS.

Upon the deposit of the amount required by the City Council by resolution and when accompanied by a written form of any water customer requesting that a test be made of the meter, the city will remove, examine, test and install another tested meter on the customer's service. If after the test, the meter is found to be in error by 5% or more, the amount deposited will be refunded. If the meter is found to register within 5%, the amount deposited will be retained by the city to cover the cost of the test. If upon testing the meter is found to have registered more than 5% too much, an adjustment in the water bill then due will be made, based on the percentage factor the meter was found to register.
(Ord. 94-60, passed 2-21-94)

RATES AND CHARGES; BILLING PROCEDURE

§ 51.45 WATER RATES AND CHARGES; ESTABLISHMENT.

(A) Water rates (as well as delinquency charges) shall be established from time to time by resolution by the City Council, and are set out specifically in § 51.46 of this subchapter, and shall be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the water system as are necessary to preserve the same in good repair and working order; to provide for the payment of the interest upon and the principal of all the bonds (if any) as and when the same become due and payable, and the creation of the reserve therefore; and to provide for such other expenditures and funds for said water system as may be required.

(B) All rates, charges and regulations for meters, permits, hook-ups, water and other water-related items or services shall be established by resolution of the City Council from time-to-time.

(1) All water rate and meter service charges for water served or supplied by the city to any person, firm or corporation, by or through any meter, service pipe or main are due and payable quarterly.

(2) A quarterly readiness to serve charge shall be made based on meter size. When a cluster of more than one meter is used in the place of a large single meter, then the quarterly readiness to serve charge shall be the charge of the single sized meter multiplied by the number of meters composing the cluster.

(3) In addition to the readiness to serve charge, a charge for water consumed, as shown by the meter reading, shall be made and collected.

(4) In addition to the readiness to serve and water consumption charges, a quarterly debt service or capital charge may be made and collected if required by resolution of the City Council.

(5) In addition to all other charges herein required to be paid and except as otherwise provided in § 51.04 of this chapter, each user who has not paid a hookup charge shall pay a hookup charge at the time that application for connection to the water system is made.
(Ord. 94-60, passed 2-21-94; Am. Ord. passed 4-18-94)

§ 51.46 RESERVED.

§ 51.47 CHARGES FOR WATER AGAINST OWNER; DUE DATE; DELINQUENCY.

All charges for water shall be made against the owner of the premises supplied with water, and must be paid within 30 days after they become due and payable. If not paid in 30 days, in addition to the other remedies provided in this chapter and by law, the water may be turned off on the premises against which such charges stand and the amount of the unpaid bill shall become a lien on such premises until paid. When so turned off, the water will not be turned on again until the charges have been paid, together with such turn-on fee as provided by resolution of the City Council.
(Ord. 94-60, passed 2-21-94)

§ 51.48 RIGHT OF CITY TO SHUTOFF OF WATER FOR NONPAYMENT OF CHARGES.

(A) *Right to disconnect.* The city reserves the right, at its discretion, to shut off the water to and from any premises where all proper charges for the use of sanitary sewers or water have not been paid. When the water has been shut off for any such cause, it shall not again be turned on until all proper charges have been paid together with such additional charge as the city may by resolution establish to cover the cost of shutting off and turning on the water. (Ord. 94-60, passed 2-21-94)

(B) *Disconnection for late payment.*

(1) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(a) That all bills are due and payable on or before the date set forth on the bill; and

(b) That if any bill is not paid by or before that date, a reminder bill will be mailed. A shutoff notice will be sent at 60 days past due with a shutoff date, providing that service will be discontinued for nonpayment; and

(c) That any customer disputing the correctness of his bill shall have a right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge that shall be established from time to time by resolution.

§ 51.49 FAILURE OF SUPPLY; NO RATE REDUCTION.

In case of a failure in the supply of water, from any cause whatsoever, there shall be no reduction or abatement of water rates made or allowed.
(Ord. 94-60, passed 2-21-94)

§ 51.50 NO FREE SERVICE.

No free service shall be furnished to any person, firm or corporation, public or private, or to any public agency or instrumentality.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.51 BILLING AND PAYMENT PROCEDURE.

(A) *Billing.* Water rates and charges shall be billed and collected quarterly, or if deemed advisable by the city, large users may be billed monthly, and all bills shall be due and payable at the office of the City Treasurer within 30 days after the billing date. For all bills not paid by the due date, a 10% penalty shall be added.

(B) *Consumer's responsibility to pay bill.* Failure to receive a bill does not relieve the customer of the responsibility to pay said bill when due.

(C) *Postmark.* All payments made by mail must be postmarked on or before the final due date to entitle the customer to pay the bill without penalty.

(D) *Legal holidays.* Should the due date fall upon a Saturday, Sunday or legal holiday, such bill may be paid on the next regular business day without penalty.
(Ord. 94-60, passed 2-21-94)

§ 51.52 WHERE BILLS ISSUED AND COLLECTED.

The bills for water service will be issued and collected at the city hall, 12 N. Charles, White Cloud, Michigan.
(Ord. passed 4-16-90)
Cross-reference:
Where sewer bills issued, see § 50.51

§ 51.53 FAILURE TO OBTAIN METER READING; BILL RENDERED; REMEDY.

(A) *Impossible to obtain a meter reading; bill rendered.* Should it be impossible for any reason to obtain a meter reading at any premise on any regular meter reading date, a bill will be rendered based on the consumption shown by the reading for the same period during the previous year and said bill will be subject to the same payment provisions as hereinbefore specified for regular billing.

(B) *Meter reader; failure to obtain reading; remedy.* In the event the meter reader cannot obtain a reading for two consecutive water reading periods, a notice will be issued to the consumer of this condition and if no arrangements are made so that the meter can be read within five days, the water supply will be shut off and shall not be restored until the bill for water has been paid plus an additional charge as determined by resolution of the City

Council to cover the cost of shutting off and turning on the water supply.
(Ord. 94-60, passed 2-21-94)

§ 51.54 WATER WITHOUT METER DURING CONSTRUCTION.

(A) Upon proper application, a contractor or builder may be granted permission to use water from a service without a meter during construction for a specified fee as determined by resolution by the City Council. Such fee shall be for water for a period not longer than 90 days, dated from the time service is granted. All usage after 90 days will be metered.
(Ord. 94-60, passed 2-21-94)

(B) On large construction projects, the city may require the setting of an appropriate meter and charge for water and service at the regular metered rates.

§ 51.55 CHARGES TO CONSTITUTE LIEN.

The charges for water service (and water system fees, assessments or rentals and applicable interest and penalties) which are, under City Charter § 7.10 and the provisions of Public Act 94 of 1933, being M.C.L.A. §§ 141.101 through 141.138, as amended, and Public Act 178 of 1939, being M.C.L.A. §§ 123.161 through 123.167, as amended, made a lien on all premises served thereby, and are hereby recognized to constitute such lien. Whenever any such charge against any piece of property shall be delinquent for six months, the City Council shall certify on or before April 1 of each year to the city tax assessing officer the fact of such delinquency, whereupon such delinquent charge shall be entered upon the next tax roll as a charge against such premises and the lien thereof enforced in the same manner as general city taxes against such premises are collected and the lien thereof enforced. No further service shall be rendered to such premises until a cash deposit of a specified amount, based on the size of the meter, shall have been made as security for payment of such charges and service. The city may also exercise and avail itself of any other remedies provided by law or the City Charter. All remedies shall be cumulative. In cases where the city is properly notified in accordance with Public Act 94 of 1933, § 21, being M.C.L.A. § 141.121, or Public Act 178 of 1939, § 5, being M.C.L.A. § 123.165, as both are amended, that a tenant is responsible for water service charges, no such service shall be commenced or continued to such premises until there has been deposited with the city a sum sufficient to cover three times the average quarterly bill for such premises as estimated by the city, with such deposit to be in no case less than $15.
(Ord. 94-60, passed 2-21-94)

ADMINISTRATION AND ENFORCEMENT

§ 51.65 AUTHORITATIVE POWER VESTED IN CITY COUNCIL.

All the authoritative power connected with the city's water supply, water system and the administration thereof is vested in the City Council. All the power granted to officers of the city is granted to them as agents, the ultimate power being reserved to itself by the City Council.
(Ord. 94-60, passed 2-21-94)

§ 51.66 WATER MAINS UNDER CONTROL OF CITY COUNCIL; UNAUTHORIZED INTERFERENCE PROHIBITED.

The water mains of the city are under the exclusive control of the City Council. No person, other than the authorized employees or agents of the city, shall disturb, tap, change, obstruct access to, or interfere with them in any manner.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.67 WATER SERVICE TO BE INSPECTED AND APPROVED BY CITY.

All water services shall be inspected and must be approved by the city.

(Ord. 94-60, passed 2-21-94)

§ 51.68 INSPECTOR OR METER READER; FREE ACCESS.

Any officer, inspector or employee, duly authorized by the City Council, shall have free access, at any reasonable times, to any premises supplied with water by the city for the purpose of reading meters or making inspections of the water and plumbing systems in the premises. In case an authorized agent of the city is refused admittance to any of the said premises, or after being admitted, is hindered or prevented from making any such examination, the water may be turned off for such premise after giving notice in writing to the owner or occupant thereof as provided in § 51.48 of this chapter.
(Ord. 94-60, passed 2-21-94) Penalty, see § 10.99

§ 51.69 RIGHT TO AMEND, REVISE, REPEAL, OR SUPPLEMENT PROVISIONS.

The city reserves the right to amend, revise, repeal or supplement this chapter to meet changing conditions in the future.
(Ord. 94-60, passed 2-21-94)

§ 51.70 ADOPTION OF RULES, RESOLUTIONS OR REGULATIONS TO ADMINISTER.

The City Council may adopt any rule, resolution or regulation it deems appropriate to administer the provisions of this chapter.
(Ord. 94-60, passed 2-21-94)

CHAPTER 52: WELLHEAD PROTECTION

Section

52.01 Short title
52.02 Purpose
52.03 Definitions
52.04 Wellhead protection red zone; establishment
52.05 Permitted and prohibited uses within red zone
52.06 Administration

§ 52.01 SHORT TITLE.

This chapter shall be known as the "Wellhead Protection Ordinance."
(Ord. 46, passed 2-17-92)

§ 52.02 PURPOSE.

The purpose of this chapter is to insure the provision of a safe and sanitary drinking water supply for the city by the establishment of a wellhead protection red zone surrounding the wellheads for all wells which are the supply sources for the city water system and by the designation and regulation of property uses and conditions which may be maintained within the zone.
(Ord. 46, passed 2-17-92)

§ 52.03 DEFINITIONS.

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

AQUIFER. A saturated, permeable geologic formation that contains and will yield significant quantities of water.

HAZARDOUS WASTE or ***MATERIAL.*** Any waste or material which because of its quantity, concentration or physical, chemical or infectious characteristics may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

WELL FIELD. A piece of land used primarily for the purpose of locating wells to supply a municipal water system.

WELLHEAD. The upper terminal of a well, including adapters, ports, seals, valves and other attachments.
(Ord. 46, passed 2-17-92)

§ 52.04 WELLHEAD PROTECTION RED ZONE; ESTABLISHMENT.

There is hereby established a use district to be known as a wellhead protection "Red Zone," identified and described as all the area with the following property description: Parcel #62-15-05-257-011, Lots 283 & 283½. Also lots 362 to 369½, Village of Morgan. Parcel #62-15-05-257-010, lots 284 to 287. Parcel #62-15-05-209-001, all that pt of NE¼ lying NW of PM RR also a pt of NW¼ NE¼ com at a pt 157.49 ft S and 527.85 ft E of NW cor

NW¼ NE¼ th S'ly and W'ly on a 200 ft radius curve to the right 357.0. Four ft to a pt on SE ln of C & O RR r/w which is 325.34 ft S and 265.47 ft E of NW cor NW¼ NE¼ th NE'ly on a 2915 ft radius curve to the left alg RR r/w 311.48 ft to beg. Sec 5, T13N, R12W, City of White Cloud. Parcel #62-11-32-300-002, the E 400 ft of the N 400 ft of the following description: Com at pt 440 ft N of S¼ post of Sec 32 th N to center of SD Sec th W 1287 feet to NW cor E½ SW¼ th S 1287 feet E 363 ft S 709 feet E 442 ft S 254 ft E to beg.
(Ord. 46, passed 2-17-92)

§ 52.05 PERMITTED AND PROHIBITED USES WITHIN RED ZONE.

(A) *Permitted uses.* The following uses shall be permitted within the wellhead protection red zone. Uses not listed are to be considered prohibited uses.

(1) Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use.

(2) Playgrounds.

(3) Wildlife areas.

(4) Nonmotorized trails, such as biking, skiing, nature and fitness trails.

(5) Landscaping maintenance (that is, mowing and trimming).

(6) Maintenance of wellheads and infrastructure;

(7) Any other open land use where any building located on property is incidental and accessory to the primary open land use.

(B) *Prohibited uses.* The following uses or conditions shall be and are hereby prohibited within the wellhead protection red zone.

(1) Surface use or storage of hazardous material, expressly including commercial use of agricultural pesticides;

(2) The application of any material which could be harmful or detrimental to the municipal water supply;

(3) Any use not contained in division (A) of this section.
(Ord. 46, passed 2-17-92) Penalty, see § 10.99

§ 52.06 ADMINISTRATION.

The policies and procedures for administration of any wellhead protection red zone established under this chapter, including without limitation those applicable to nonconforming uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the city as the same is presently enacted or may from time to time be amended.
(Ord. 46, passed 2-17-92)
Cross-reference:
Zoning ordinance, see Title XV, Appendix

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. PARKING REGULATIONS

72. SNOWMOBILE USAGE

73. MOTOR VEHICLE CODE

74. MOTOR VEHICLE CODE/ORV

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

70.01 Uniform Traffic Code adopted
70.02 State Vehicle Code adopted
70.03 Exhibition driving prohibited

Drunk Driving Cost Recovery

70.15 Title
70.16 Findings
70.17 Definitions
70.18 Liability for expense of an emergency response
70.19 Fee schedule

Cross-reference:

Traffic in parks, see 93.17

GENERAL PROVISIONS

§ 70.01 UNIFORM TRAFFIC CODE ADOPTED.

(A) The 1995 amended Uniform Traffic Code for Cities, Townships and Villages promulgated by the Director of the Department of State Police, is hereby adopted by reference and made a part of this chapter as fully as if such materials were set out at length herein.

(B) The purpose of the Uniform Traffic Code is to regulate traffic within the city. Complete copies of the code are available at the city office for inspection by and distribution to the public at all times.
(Ord. 21, passed - - ; Am. Ord. passed 8-20-79; Am. Ord. passed 6-15-81)

§ 70.02 STATE VEHICLE CODE ADOPTED.

(A) The most current version of the Michigan Vehicle Code, being M.C.L.A. §§ 257.1 et seq., as amended from time to time, is hereby adopted by reference.

(B) All references in the Michigan Vehicle Code for state cities, townships and villages to ***GOVERNMENTAL UNIT*** shall mean the city of White Cloud.

§ 70.03 EXHIBITION DRIVING PROHIBITED.

(A) It shall be unlawful for any person to engage in exhibition driving of a motor vehicle on any street, alley or road or in any park or public place or on any private grounds without the written permission of the owner thereof within the city.

(B) For the purpose of this section any one or more of the following shall constitute exhibition driving:

(1) Racing, that is, operating a motor vehicle alone or in company with other motor vehicle or vehicles in an attempt to compete with the other motor vehicle over a given course or an allotted time limit.

(2) Sudden rapid acceleration for exhibition other than necessary to avoid other traffic which is not in contest with said driver.

(3) Squealing, peeling, or burning tires, that is, racing the motor and spinning the wheels on pavement thereby causing a noise from the tires so spinning.

(4) Fish tailing, which is, spinning the tires causing the back of the car to sway from side to side.

(5) Engaging in a game, which is, using a motor vehicle in a dangerous manner in the course of any other game or contest.

(6) Show-off driving, that is, any other dangerous intentional operation of a motor vehicle which would tend to attract the attention of the public, whether there were people present or not, and whether or not there was other traffic, either pedestrian or motor traffic, or any other kind of traffic present.

(C) A person who shall engage in exhibition driving in violation of this section shall be held responsible as for a civil infraction.
(Ord. passed 8-9-71; Am. Ord. passed 2-17-75; Am. Ord. passed 8-20-79)
Statutory reference:
Municipal civil infractions, see M.C.L.A. §§ 699.8701 et seq.

DRUNK DRIVING COST RECOVERY

§ 70.15 TITLE.

This subchapter shall be known as the “Drunk Driving Cost Recovery Ordinance of the City of White Cloud.”
(Ord. 48, passed 2-17-92)

§ 70.16 FINDINGS.

The city finds that a significant number of the traffic arrests and traffic accidents in the city involve drivers operating a motor vehicle while under the influence of intoxicating liquor or a controlled substance, or a

combination thereof. Furthermore, the city finds that there is a greater likelihood of personal injury or property damage in accidents involving a driver operating under the influence of an intoxicating liquor or a controlled substance, or combination thereof. As a result, the city finds that a greater operational and financial burden has been placed on the city's public safety services by persons operating a motor vehicle under the influence of intoxicating liquor or a controlled substance, and that it is necessary to recover these increased emergency response costs. (Ord. 48, passed 2-17-92)

§ 70.17 DEFINITIONS.

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

EMERGENCY RESPONSE. Providing or utilizing police officers, firefighters, emergency medical or rescue personnel by the city, or by a private individual or corporation operating at the request or direction of the city, in connection with any incident involving a driver of a motor vehicle operating under the influence of an intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance. Such incidents shall include any accident involving a motor vehicle where one or more of the drivers was operating the motor vehicle while under the influence of an intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance; and any traffic stop and arrest by a public safety officer when the driver was operating the motor vehicle while under the influence of an intoxicating liquor or a controlled substance, or a combination thereof.

EXPENSE OF AN EMERGENCY RESPONSE. All direct and reasonable expenses related to an emergency response. These expenses shall include, but are not limited to the costs of police, firefighting, emergency medical and rescue services, the salaries and wages of any personnel responding to the incident, the salaries and wages of any personnel engaged in investigating or prosecuting the incident and all costs of any reports connected therewith, all costs connected with the supervision of personnel responding to or investigating the incident, and all costs connected to the administration and processing of chemical tests of the blood, breath or urine of the driver. (Ord. 48, passed 2-17-92)

§ 70.18 LIABILITY FOR EXPENSE OF AN EMERGENCY RESPONSE.

(A) *Person liable.* Any person is liable for the expense of an emergency response if that person, while under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, proximately causes any incident resulting in an emergency response.

(B) *Presumptions.* For the purpose of this subchapter, a person is under the influence of an intoxicating liquor or a controlled substance, or the combination of an intoxicating liquor and a controlled substance, when his or her physical or mental abilities are impaired to a degree 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 intoxicating liquor 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%.

(C) *Charge against person.* The expense of an emergency response shall be a charge against the person liable for the expense under this subchapter. The charge constitutes a debt of that person and is collectible by the city for incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

(D) *Cost recovery schedule.* The City Council shall from time to time adopt resolutions which set forth a schedule of the costs which are incurred in making an emergency response. It shall be presumed that the costs listed in this schedule are the true costs incurred by the City and represent the “expense of an emergency response.” This schedule shall be as set forth in § 70.19 of this subchapter and shall be available to the public from either the City Clerk or the City Police Department.

(E) *Billing.* The city may, within ten days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal service to the person liable for the expenses as enumerated pursuant to division (D) of this section. The bill(s) shall require full payment in 30 days from the date of service.

(F) *Failure to pay; procedure to recover costs.* Any failure by the person described in this subchapter as liable for the expense of an emergency response to pay the bill within 30 days of service shall be considered a default. In case of default, the city may commence civil suit to recover the expenses and any costs allowed by law. (Ord. 48, passed 2-17-92)

§ 70.19 FEE SCHEDULE.

The following fee schedule shall be adopted for the Cost Recovery Program:

(A) *Wages.* Wages are subject to adjustments in accordance with the prevailing labor agreement for the position.

Police Officer:	$ 9 to 38 per hour
Clerk Typist	$13 to 30 per hour

(B) *Vehicle costs.*

Police Vehicles	Total cost of $10 per hour

(C) *Blood tests.* As charged by the service provider.

(D) *Legal costs.* As charged by the service provider.
(Res. 93-7, passed 6-21-93)

CHAPTER 71: PARKING REGULATIONS

Section

General Provisions

71.01 Establishment and designation of parking areas and parking time limits
71.02 Parking restrictions
71.03 Night parking regulated

Administration and Enforcement

71.15 Parking Violations Bureau established
71.16 Installation and control of penalty collection boxes
71.17 Parking violation notices
71.18 Penalties for parking violations; payment
71.19 Failure to pay penalty; issuance of warrant
71.20 Impoundment of vehicles

GENERAL PROVISIONS

§ 71.01 ESTABLISHMENT AND DESIGNATION OF PARKING AREAS AND PARKING TIME LIMITS.

(A) The Chief of Police shall have the authority to establish motor vehicle parking time limits and parking areas on the public streets and parking lots within the city.

(B) Such parking areas shall be designated by signs setting forth the maximum parking time limits and days and hours such time limits are effective.
(Ord. passed 6-21-76)

§ 71.02 PARKING RESTRICTIONS.

(A) Parking of vehicles between the sidewalk and normal curb line of any street is prohibited unless a parking area thereon shall be so designated by signs or markings by the Police Department.

(B) Parking contrary to parking control signs erected in any city parking lot is prohibited.
(Ord. passed 6-21-76) Penalty, see § 10.99

§ 71.03 NIGHT PARKING REGULATED.

No automobile or other vehicle shall be parked on any street or alley in the city between the hours of 2:00 a.m. and 6:00 a.m. of any day.
(Ord. passed 6-21-76) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 71.15 PARKING VIOLATIONS BUREAU ESTABLISHED.

A Parking Violations Bureau is hereby established as a part of the Police Department of the city.
(Ord. passed 6-21-76)

§ 71.16 INSTALLATION AND CONTROL OF PENALTY COLLECTION BOXES.

The Parking Violations Bureau of the city may erect, install, and control penalty collection boxes or containers for the collection of penalties for parking violations of motor vehicles within the city.
(Ord. passed 6-21-76)

§ 71.17 PARKING VIOLATION NOTICES.

Parking violation notices may be affixed to each violating vehicle or shall be given to the operator thereof. Whenever the vehicle in violation is unoccupied, it shall be presumed that the registered owner or owners are the operator(s) and shall be liable therefore. Said presumption shall be refutable by competent evidence.
(Ord. passed 6-21-76)

§ 71.18 PENALTIES FOR PARKING VIOLATIONS; PAYMENT.

(A) The operator or owner of the violating vehicle may elect to pay a penalty, in lieu of a fine, for said parking violation by depositing the amount of the penalty as fixed in divisions (B) and (C) of this section, with the City Clerk.

(B) If a parking violation notice is given, the following penalty, in lieu of a fine, may be paid, provided the same is paid within 24 hours of the violation: for all parking violations, the fine shall be in an amount to be determined by Council resolution from time to time,.

(C) In the event that said penalty is not paid within 24 hours, the penalty shall be a fine in an amount to be determined by Council resolution from time to time, for each violation of overtime parking, and said penalty shall be paid at the office of the Parking Violations Bureau.
(Ord. passed 6-21-76)

§ 71.19 FAILURE TO PAY PENALTY; ISSUANCE OF WARRANT.

(A) In the event the owner or operator of a motor vehicle on which is placed a parking violation notice does not elect to pay a penalty, in lieu of a fine, within 48 hours of the time of the alleged violation, a complaint may be signed and a warrant requested in the District Court.

(B) Failure of the Police Department to give, or an owner or operator of a vehicle to receive a parking violation notice shall not prevent issuance of a warrant for a parking violation.
(Ord. passed 6-21-76)

§ 71.20 IMPOUNDMENT OF VEHICLES.

The Chief of Police shall have the authority to impound any vehicle found to be in violation of this chapter.
(Ord. passed 6-21-76)

CHAPTER 72: SNOWMOBILE USAGE

Section

72.01	Definitions
72.02	Operating circumstances
72.03	Operating on streets and sidewalks; exceptions
72.04	Equipment and safety requirements
72.05	Accidents
72.99	Penalty

Statutory reference:

For state provisions regarding snowmobiles, see M.S.A. 9.3200 et seq. and M.C.L.A. 324.82101 et seq.

For authority to regulate snowmobiles by local ordinance, see M.C.L.A. 324.82124 (rev. 97)

§ 72.01 DEFINITIONS.

For the purpose of this chapter, certain terms, phrases, words, and their derivatives, shall be construed as specified in this section. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

CITY. The City of White Cloud.

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

OPERATE. To ride in or on and be in actual physical control of the operation of a snowmobile.

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

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

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

ROADWAY. That portion of a highway improved/unimproved, designated or ordinarily used for vehicular travel.

SHOULDER. That portion of a highway on either side of the roadway which is normally snowplowed for the safety and convenience of vehicular traffic.

SNOWMOBILE. Any motor driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled-type runners or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated.
(Ord. passed 6-1-98)

§ 72.02 OPERATING CIRCUMSTANCES.

It shall be unlawful for any person to operate a snowmobile under the following circumstances:

(A) *Private property; permission required.* On private real property of another without the express permission to do so by the owner or occupancy of said property.

(B) *Public grounds; parks, etc., Posted trail.* On public school grounds, park property, playgrounds, recreational areas and golf courses, without express provision or permission to do so by the owner or proprietor thereof, unless on a designated, posted snowmobile trail.

(C) *Speed.* At a rate of speed greater than is reasonable and proper, (not to exceed 25 MPH within the city limits) having due regard to persons and property and conditions then existing.

(D) *Driving under influence.* While under the influence of intoxicants, liquor, or narcotic drugs. The city finds that, in traffic accidents involving drivers who are operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances, there is a greater likelihood of personal injury and property damage. As a result of these determinations, a greater operational and financial burden is placed upon the city's public safety services by persons who are operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances. Subsequently, it is necessary to recover these increased emergency response costs, under the OUIL Cost Recovery Ordinance #48 of 1992, City of White Cloud.

(E) *Noise control.* In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

(F) *Transporting bow or firearms.* While transporting on the snowmobile a bow, unless unstrung or encased, or a firearm, unless unloaded in both barrel and magazine, securely encased and fully visible.

(G) *Cemetery - burial ground.* Snowmobiles shall not be operated in cemeteries except by cemetery officials.
(Ord. passed 6-1-98) Penalty, see § 72.99

§ 72.03 OPERATING ON STREETS AND SIDEWALKS; EXCEPTIONS.

Snowmobiles must obey all motor vehicle traffic laws, state snowmobile laws and local ordinances. No person shall operate a snowmobile upon the main traveled portion of streets, highways or public sidewalks within the city, with the following exceptions:

(A) *Right angle; stopping.* Properly registered snowmobiles may cross highways, except limited access highways and freeways as defined in Act No. 300 of the Public Acts of 1949 if such crossing can be made in safety and it does not interfere with the free movement of vehicular traffic approaching from any direction on such highway. An operator shall bring his snowmobile to a complete stop before proceeding across any public highway and shall yield the right-of-way to all vehicular traffic upon any highway.

(B) *Shoulders; culverts.* Snowmobiles may be operated on county highways (city streets) not having ten or more feet of traversable right-of-way outside the traveled portion of the roadway as far off the highway as possible. A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the driver yields the right-of-way to any approaching vehicle on the highway.

(C) *Street use; emergency.* A duly constituted law enforcement officer of the city may authorize use of a snowmobile on a public highway or street within his jurisdiction, when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

(D) *Access to area of operation.* Whenever it is impractical to gain immediate access to an area

adjacent to a public highway where a snowmobile is to be operated, the vehicle may be operated adjacent and parallel to the highway for the purpose of gaining access to the area of operation.

(E) *Special events.* A snowmobile may be operated on a street or highway for a special event of limited duration, conducted according to a prearranged schedule only, under permit for the governmental unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the Department of Natural Resources.
(Ord. passed 6-1-98) Penalty, see § 72.99

§ 72.04 EQUIPMENT AND SAFETY REQUIREMENTS.

No snowmobile shall be operated within the city unless it is equipped according to the following:

(A) *Lights.* Has at least one headlight and at least one taillight/brakelight.

(B) *Brakes.* Has adequate brakes in good working condition or a locking mechanism of the snowmobile's traction belt or belts.

(C) *Muffler.* A muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(D) *State registration.* The certificate of registration issued by the state shall accompany the vehicle or driver and be made available for inspection upon demand by any Peace Officer.

(E) *Registration numbers displayed.* The owner of any snowmobile having been issued a certificate of registration for the snowmobile shall paint on or attach in a permanent manner to each side of the forward half of the snowmobile the identification number in block characters of good proportion, not less than three inches in height, reading from left to right. The numbers shall contrast so as to be distinctly visible and legible.

(F) *Out of state registration.* A snowmobile registered in another state or in a province of Canada may be operated within the state of Michigan under the authority of such registration not to exceed 20 days, providing the registration is with the vehicle or operator.

(G) *Leaving unattended.* A snowmobile shall not be left unattended with the engine running or the key in the ignition.

(H) *Crash helmets.* A person operating or riding on a snowmobile within the city limits shall wear a crash helmet on his or her head. The crash helmet shall be approved by the U.S. Department of Transportation.
(Ord. passed 6-1-98) Penalty, see § 72.99

§ 72.05 ACCIDENTS.

The operator of a snowmobile involved in an accident resulting in injuries to or death of any person, or property damage in an estimated amount of $100 or more, or some person acting from him, or the owner of the snowmobile having knowledge of the accident, shall immediately, by the quickest means of communication, notify the Police Department of the city.
(Ord. passed 6-1-98) Penalty, see § 72.99

§ 72.99 PENALTY.

Any person who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this chapter shall be punished for each offense by a fine of not more than $100 or by imprisonment in the County Jail for a period not to exceed 90 days, or both, such fine and imprisonment in the discretion of the Court.

CHAPTER 73: MOTOR VEHICLE CODE

Section

73.01. Definitions
73.02 Allowable ORV Operation Locations
73.03 Street Restrictions. Speed Limits
73.04 Operation
73.05 Conditions/Requirements
73.06 Noise
73.07 Impoundment of ORV's
73.08 Violations
73.09 Restitution
73.10 Law Enforcement Exempted

§ 73.01 DEFINITIONS.

A. "City" means the City of White Cloud.
B. "Driver's License" means an operator's or chauffeurs' license or permit issued to an individual by the Secretary of State under Chapter III of the Michigan Vehicle Code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle whether or not conditions are attached to the license or permit.
C. Law Enforcement officer means any city police officer, any deputy sheriff, the county Sheriff, the Chief of Police or any other city enforcement officer
D. "Operate" means to ride in or on and be in actual physical control of the operation of an ORV
E. "Operator" means a person who operates or is in actual physical control of the operation of an ORV
F. "ORV" means a motor driven off street recreation vehicle capable of cross country travel without benefit of a street or trail on or immediately over land, snow, ice, marsh, swampland or other natural terrain. ORV or vehicle includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, golf cart, a motorcycle or related 2-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle 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, a construction or logging vehicle used in performance of its common function or a registered aircraft.
G. "Street" means a City street, street, right-of-way, roadway, alley, public parking lot or any parking lot or any other area that is generally accessible to the public.

§ 73.02. ALLOWABLE ORV OPERATION LOCATIONS.

Ordinance no. 2018-28, *Amended Ordinance 2012-15 on 10/02/2018*.

An ORV may be operated on the far right of the maintained portion of designated streets within the City, along or upon the gravel shoulder wherever possible. If a gravel shoulder is not available, then at the extreme right of the maintained portion all of the street/road right of ways.

In accordance with all other provisions of this ordinance, it shall be lawful to operate an ORV on all of streets located in the City of White Cloud, except on any state (M37 & M20) designated roads.

§ 73.03. STREET RESTRICTIONS/SPEED LIMITS.

The City Council, City Manager or the Chief of Police may close certain streets in the City to protect environment or if the operation of ORV's pose a particular and demonstrable threat to public safety. The City Council may reduce the speed limit on any street where ORV's are authorized under this ordinance to 15 miles per hour if the City Council determines that such reduction is reasonable and necessary to public safety and provided such lowered speed limit is posted at reasonable intervals.

§ 73.04. OPERATION.

An ORV may not be operated on the street surface, street way, shoulder or right-of-way of any State or Federal highway in the City. (M-37 or M-120) An ORV may not be operated between the hours of 10:00 pm and 6:00 am.

§ 73.05. CONDITIONS/REQUIREMENTS.

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on the aforementioned city streets:

a) at a speed of no more than 25 miles per hour or a lower posted ORV speed limit;
b) by a person not less than 16 years of age and possessing a valid, unrestricted driver's license;
c) with the flow of traffic;
d) in a manner which does not interfere with traffic on the street;
e) traveling single file except when overtaking and passing another ORV:
f) while displaying a lighted headlight and lighted taillight;
g) while the operator and each passenger is wearing a crash helmet and protective eyewear approved by the United States Department of Transportation unless the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt. Protective Eye ware must be worn unless a United States Department of Transportation approved windshield is in place upon the vehicle;
h) with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle;
i) while the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operations;
j) the ORV must have a current ORV registration sticker/permit affixed in the manner provided by state law;
k) while being operated upon city streets, ORV's shall always yield the right-of-way to registered motor vehicles, pedestrians and bicycles. ORV'S shall be prima facie at fault in any crash upon a roadway or street.
l) pursuant to noise and emission standards defined by law;
m) operated in a manner that does not cause damage to the environment, a street or other property; and
n) an ORV shall not be operated:

1) Within the City owned parks, natural areas or cemetery properties.
2) On or upon a city sidewalk or non-motorized pathway intended for pedestrian or bicycle use only;
3) On private property without written permission from the owner;
4) In any other area closed by a governmental authority;
5) By anyone under the influence of intoxicating liquor or any controlled substance or by anyone whose ability to operate said ORV may be impaired thereby;
6) On or upon any body of water or wetland frozen or otherwise;
7) By anyone transporting thereon a firearm, unless the same is unloaded and securely encased;
8) In any manner that is not in compliance with State of Michigan laws and regulations pertaining to off-road vehicles;
9) With any passenger unless the ORV is specifically designed to carry passengers;

Section 73.06 NOISE.

ORV operation will be treated the same as other motor vehicles and be subject to the noise, smoke and emission provisions of the Michigan Motor Vehicle Code 257.707, 257.707a, 257.707b, 257.707c and 257.707d.

Section 73.07 IMPOUNDMENT OF ORV's.

A law enforcement officer may impound any ORV used or operated in violation of any provision of this ordinance for a period not to exceed thirty (30) days, and the owner or operator of the ORV shall be responsible for all costs involved in the storage and/or removal of the impounded ORV. If the operator of the impounded ORV is not the owner the law enforcement officer shall notify the owner of such impoundment by telephone, letter or personal contact as soon as practical, but within 24 hours unless extenuating circumstances prevent contact within that time frame. All ORV's not reclaimed by the owner within the time frames set by law shall be disposed of in accordance of 257.252a-g.

Section 73.08 VIOLATIONS.

Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than $200 per offense. A City Police Officer, a County Sheriff Deputy or a County Sheriff and any enforcement officer for the City of White Cloud may enforce this ordinance. If an enforcement officer determines that there is probable cause that this ordinance has been violated, the officer is authorized to issue and serve municipal civil infraction notice upon a person or entity violating this ordinance. The citation may be paid at the 78th District of Newaygo County pursuant to White Cloud Ordinance 2008-06 (Section 6 Civil Infraction Enforcement Procedures g, I- Municipal Civil Infractions).

Section 73.09 RESTITUTION.

A court may order a person who causes damage to the environment, a street or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

Section 73.10 LAW ENFORCEMENT EXEMPTED.

Any law enforcement officer while enforcing provisions of this ordinance, are exempt from the provisions thereof.

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. NUISANCES

92. CEMETERIES

93. PARKS AND RECREATION

94. STREETS AND SIDEWALKS

95. HAZARDOUS MATERIALS

96. FIREWORKS

CHAPTER 90: ANIMALS

Section

General Provisions

90.01 Keeping or housing of animals or fowl
90.02 Running at large prohibited; seizure by enforcing officer
90.03 Abandonment of animals prohibited
90.04 Presumption of ownership of dogs or cats
90.05 Noisy dogs and cats prohibited
90.06 Confinement and testing of animal that has bitten a person
90.07 Keeping of vicious and dangerous dogs
90.08 Confinement of female dogs in heat
90.09 Licensing and registration of dogs; wearing of license tag
90.10 Establishment or maintenance of boarding or breeding kennels

Impoundment Provisions; Enforcement

90.20 Impoundment; disposition when unclaimed; liability of city
90.21 Release from impoundment; fines
90.22 Recovery of value of illegally killed dog
90.23 Enforcement officers; warnings and citations
90.24 Interference with enforcing officer prohibited
90.25 Regulations regarding Wild and Vicious Animals

Cross-reference:

Domestic animals in parks, see § 93.19
Burial of dead animals, see § 130.02
Cruelty to animals, see § 130.01

GENERAL PROVISIONS

§ 90.01 KEEPING OR HOUSING OF ANIMALS OR FOWL.

(A) Any other provision of this chapter notwithstanding, the keeping, housing, raising, use or medical care of fowl or animals, other than house pets of an occupant of the premises, is prohibited in any R-2, R-3, R-4 or R-5 District. Where such activities are pursued in any other district, a lot area of one-half acre, exclusive of the lot area required for any dwelling thereon, shall be provided for each animal; provided, that a commercial kennel, an animal hospital or riding stable need not provide over four acres for such use; and further provided, that any other aforementioned activity need not provide over ten acres for such use. Where animals other than house pets of the owner of the premises are kept or allowed outside, a fence of such construction as to keep such animals from leaving the premises at will shall be provided and regularly maintained. Provided further before such animals are housed, an application shall be filed with and approved by the City Clerk. (Ord. passed 3-15-82)

(B) Except as specifically permitted by the provisions of division (A) of this section, as amended, no persons shall keep or house any animal within the city except dogs, cats, canaries or other animals or birds which are commonly kept and housed inside dwellings as household pets; provided that no person shall permanently keep or house more than two dogs or cats, six months old or older. For the purpose of this division (B), ***PERMANENT*** shall be defined as more than 30 days; however, extensions may be applied for in special cases. (Ord. 34, passed 3-15-82; Am. Ord. passed 5-17-82)
Penalty, see § 10.99

§ 90.02 RUNNING AT LARGE PROHIBITED; SEIZURE BY ENFORCING OFFICER.

(A) No person shall permit any domestic animal or any goose, chicken or other fowl to run or be at large in the public streets, lanes, alleys, vacant lots or other open or public places; nor upon any private premises other than the premises of the owner or custodian of such domestic animal or fowl, without the consent of the owner or occupant of such private premises; provided, that any such domestic animal may be permitted on public properties if in the immediate control of a competent person.

(B) The enforcing officer shall seize any animal or fowl running at large in the city.
(Ord. 34, passed 3-15-82) Penalty, see § 10.99

§ 90.03 ABANDONMENT OF ANIMALS PROHIBITED.

(A) No person shall abandon any animal or fowl in any public place or public highway or upon the property of another.
(Ord. 34, passed 3-15-82) Penalty, see § 10.99
Cross-reference:
Cruelty to animals, see § 130.01

§ 90.04 PRESUMPTION OF OWNERSHIP OF DOGS OR CATS.

Every person in possession of any dog or cat, who shall allow such dog or cat to remain about his premises for a period of five days, shall be deemed to be the owner thereof for the purpose of this chapter.
(Ord. 34, passed 3-15-82)

§ 90.05 NOISY DOGS AND CATS PROHIBITED.

No person shall own, keep, house or have charge of any dog or cat which by prolonged barking, howling or yelping becomes a nuisance. Prolonged barking, howling, yowling or yelping for a period of 15 minutes or longer shall be deemed a violation of this section.
(Ord. 34, passed 3-15-82) Penalty, see § 10.99
Cross-reference:
Noise nuisances enumerated; exceptions, see § 91.03

§ 90.06 CONFINEMENT AND TESTING OF ANIMAL THAT HAS BITTEN A PERSON.

Any dog or other animal that has bitten a person shall be held in confinement for a period of at least ten days from the date the person was bitten. If such dog or other animal is unlicensed such confinement shall be in the city dog pound. If the animal dies during the period of confinement, the head shall be sent to a laboratory for examination for evidence of rabies.
(Ord. 34, passed 3-15-82)

§ 90.07 KEEPING OF VICIOUS AND DANGEROUS DOGS.

(A) No person shall own, keep, house or have charge of any dog which exhibits an ugly or vicious disposition without provocation or is dangerous to persons or property. Any dog shall be deemed vicious which has bitten a person or domestic animal without provocation or which by its actions gives indications that it is likely to bite any person or domestic animal without provocation. This section shall not apply to dogs properly confined upon the owner's premises with proper warning signs posted and used for the purpose of guarding the premises, nor shall it apply to dogs used by the City Police Department in connection with its regular duties.

(B) The owner or any person entitled to possession or control of such a dog shall deliver it to the enforcing officer for confinement or disposal.
(Ord. 34, passed 3-15-82) Penalty, see § 10.99

§ 90.08 CONFINEMENT OF FEMALE DOGS IN HEAT.

No person shall own, keep or house any female dog in the city, while such dog is in heat, except when confined within the dwelling of such person or a building which would prevent the ingress of other dogs.
(Ord. 34, passed 3-15-82) Penalty, see § 10.99

§ 90.09 LICENSING AND REGISTRATION OF DOGS; WEARING OF LICENSE TAG.

(A) No resident person shall own, keep or house any dog within the city, unless such person shall have complied with the laws of the state providing for the licensing and registration of such dog.

(B) No resident person shall own, keep or house any dog six months old or older that does not, at all times, wear a collar or harness with a license tag issued pursuant to the laws of the state.
(Ord. 34, passed 3-15-82) Penalty, see § 10.99
Statutory reference:
Dog law, see M.C.L.A. §§ 287.261 et seq.

§ 90.10 ESTABLISHMENT OR MAINTENANCE OF BOARDING OR BREEDING KENNELS.

No person shall establish or maintain any boarding kennel or any breeding kennel or permit any such kennel to be maintained on any premises owned, leased or occupied by him, except as an accessory use to an animal hospital or a doctor of veterinary medicine and then only if such use complies with the requirements of the zoning ordinance.
Cross-reference:
Zoning ordinance, see Title XV, Appendix

IMPOUNDMENT PROVISIONS; ENFORCEMENT

§ 90.20 IMPOUNDMENT; DISPOSITION WHEN UNCLAIMED; LIABILITY OF CITY.

(A) Any animal or fowl seized under the provisions of § 90.02(B) of this chapter shall be placed in the pound or delivered to the County Animal Control Officer. If the owner of the impounded animal or fowl can be

determined, the Police Department shall notify such owner of the impoundment.

(B) All animals or fowl not claimed within four days after such notification or not claimed within four days after impoundment if the owner thereof cannot be determined shall be disposed of by the proper authority.

(C) It shall be lawful for the Animal Control Officer or any police officer to seize any animal or fowl running at large.

(D) The city and the enforcing officer shall incur no liability in the lawful seizure or disposal of any animal or fowl.
(Ord. 34, passed 3-15-82; Am. Ord. passed 5-17-82)

§ 90.21 RELEASE FROM IMPOUNDMENT; FINES.

No dog shall be released from the pound unless the owner or person entitled to demand such dog shall present a current valid license and pay pickup fees and pay board fees according to the current county rates for each day the dog is confined. However, owners of animals confined for health reasons under §§ 90.06 and 90.07 of this chapter shall not be fined.
(Ord. 34, passed 3-15-82; Am. Ord. passed 5-17-82)

§ 90.22 RECOVERY OF VALUE OF ILLEGALLY KILLED DOG.

Nothing in this chapter shall be construed to prevent the owner of a licensed dog from recovering, by action at law, from any enforcing officer or other person, the value of any dog illegally killed by such enforcing officer or other person.
(Ord. 34, passed 3-15-82)

§ 90.23 ENFORCEMENT OFFICERS; WARNINGS AND CITATIONS.

(A) This chapter shall be enforced by any police officer or the County Dog Warden.

(B) A written warning may be issued for the first violation. A citation, summons or appearance ticket shall be issued for each violation thereafter.
(Ord. 34, passed 3-15-82)

§ 90.24 INTERFERENCE WITH ENFORCING OFFICER PROHIBITED.

(A) No person shall hinder, obstruct or delay the enforcement officer or other person who is engaged in lawfully taking into custody any dog, other animal or any fowl found running-at-large or being possessed or housed by any person contrary to the provisions of this chapter.

(B) It is a defense to prosecution under this section that the hindrance, obstruction, resistance, delay or interference alleged consisted of constitutionally protected speech only.
(Ord. 34, passed 3-15-82) Penalty, see § 10.99

§ 90.25 REGULATIONS REGARDING WILD AND VICIOUS ANIMALS

(A) For the purpose of this Section 90.25, the following terms shall have the following meanings:

(i) Public Nuisance Animal. Any animal that unreasonably annoys a human being, endangers the life or health of any other animal or person, or substantially interferes with the rights of any person to the enjoyment of life or property. The term “public nuisance animal” shall also mean and include, bu is not limited to, any animal that does any of the following:

(a) Is repeatedly found at large;

(b) Damages the property of anyone other than its owner;

(c) Molests or intimidates pedestrians or passersby;

(d) Chases vehicles;

(e) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or other discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(f) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(g) Causes unreasonable unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

(h) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained; or

(i) Attacks domestic animals.

A traditional farm animal shall not be deemed to be a "public nuisance animal" if it is kept properly restrained at all times, complies fully with the Generally Accepted Agricultural Management Practices ("GAAMPs") promulgated by the Michigan Department of Agricultural (or successor state agency), and the keeping of such a traditional farm animal is permitted within the zoning district where the animal is located.

(ii) Vicious Animal. Any animal that attacks, bites, or injures any human being or domesticated animal without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injury human beings or domesticated animals or to destroy property.

(iii) Wild Animal. Any living member of the animal kingdom, including mammals, birds, and reptiles and including those animals born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), traditional farm animals, small rodents, and captive-bred species of common cage birds.

(B) Prohibition Against the Keeping of Wild Animals, Vicious Animals, or Public Nuisance Animals. No person shall own, keep, possess, or have custody on his or her premises any wild animal, public nuisance animal or vicious animal. This prohibition shall not apply to government officials who keep or handle such animals pursuant to their governmental functions. Nor shall this Subsection (B) apply to persons keeping wild animals pursuant to a valid state or federal license allowing them to keep such wild animals.

(c) Performing Animal Exhibitions. No person shall sponsor, promote or train an animal to participate in, contribute to the involvement of an animal in, or attend as a spectator in any activity or event in which any animal engages in unnatural behavior or is wrestled, fought, mentally or physically abused, or is induced or encourage to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that will cause or is likely to cause activities taking place on or in either public or private facilities or property, but this Subsection (C) shall not apply to the following:

(i) Rodeos or circuses if properly licensed under all applicable laws.

(ii) Hunting, fishing, or trapping activities as permitted by state law.

(iii) Traditional agricultural, farm or animal husbandry uses and activities.

(iv) Licensed slaughterhouse.

(D) Enforcement and Penalties. A violation of this Section 90.25 is a municipal civil infraction offense, for which the fine shall be not less than $50 nor more than $500 for the first offense and not less than $200 nor more than $2,500 for subsequent offenses, in the discretion of the court, and such fine shall be in addition to all other costs, attorney fees, damages, damages, expenses, and other remedies as provided by law. For the purposes of this section, "subsequent offense" means a violation of the provisions of this Section 90.25 committed by the same person within twelve (12) months of a previous violation of the same provision of this Section 90.25 for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses. All remedies available under this Section 90.25 and Michigan law shall also be deemed to be cumulative and not exclusive.

(E) Quarantine. Every animal that has bitten a person shall be quarantined for a period of at least ten (10) days for the purpose of determining whether the animal is diseased. Such quarantine may be at a government shelter, a veterinary office, or such other place as may be designated by the City Manager. Quarantine shall mean isolating the animal from people and from other animals. The owner of such animal shall surrender such animal to a government control officer or City official upon request.

(F) Removal of Animals; Related Penalties. In addition to the municipal civil infraction procedures and penalties contained in Subsection (D) hereof, upon sworn complaint that a violation of this Section 90.25 has occurred, the City or the court may issue a citation or ticket to the towner of any animal in violation of this Section 90.25 or may secure a summons against said person commanding him or her to appear in the appropriate court and show cause why said animal should not be ordered confined, vacated, or destroyed. Upon a hearing at said court, if the court shall determine said animal to be a vicious animal, a public nuisance animal, or a wild animal, the court may order said animal confined to the premises of the owner or such other place as the court may determine or may order the Director of Animal Control (or equivalent official) to cause said animal to be destroyed, or may enter such other order relative to the care and custody of such animal as the court shall determine to be appropriate. Any person who shall fail to comply with or otherwise violates such order shall be responsible for a municipal civil infraction pursuant to Subsection (D) hereof.

(G) Civil Liability. Nothing in this Section 90.25 shall be construed as limiting the civil liability of the owner or possessor of an animal for damages or acts committed by the animal.

(H) Other Remedies. In addition to the remedies and penalties provided herein, the City may seek injunctive relief to abate and permanently enjoin any violation of this Section 90.25.

(I) Exceptions. Any farm animals that are part of a farming enterprise under the Right to Farm Act, under generally accepted management practice as provided under state law, P.A. 261 of 1999, shall be exempt hereunder.

CHAPTER 91: NUISANCES

Section

91.01 Conditions declared to be public nuisances
91.02 Nuisances prohibited
91.03 Noise nuisances enumerated; exceptions
91.04 Violations

§ 91.01 CONDITIONS DECLARED TO BE PUBLIC NUISANCES.

Whatever annoys, injures or endangers the safety, health, comfort or repose of the public, offends public decency, interferes with or obstructs or renders dangerous any street, highway or navigable stream, or in any way renders the public insecure in life or property, is hereby declared to be a public nuisance. Public nuisances shall include but not be limited to whatever is forbidden by any provision of this chapter.
(Ord. passed 6-20-83)

§ 91.02 NUISANCES PROHIBITED.

No person shall create, maintain or permit to be maintained a public nuisance in the city.
(Ord. passed 6-20-83) Penalty, see § 10.99

§ 91.03 NOISE NUISANCES ENUMERATED; EXCEPTIONS.

(A) *Enumeration*. No person shall engage in the following noise-creating activities:

(1) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus, train or other vehicle while not in motion, except as a danger signal or to give warning of intent to get into motion, or, if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle has begun; the creation by means of such signal devices of any unreasonably loud or harsh sound; and the sounding of any signal device for any unreasonable or unnecessary period of time.

(2) *Radio, television and musical instruments.* The playing of any radio, phonograph, television set or musical instrument in such manner, or with such volume during the hours between 11:00 p.m. and 7:00 a.m. or at any other time so as to disturb the quiet, comfort or repose of persons in any dwelling, hotel, hospital or other type of residence, or in any office, or of any persons in the vicinity; and, except as provided in division (B) of this section, the playing at any time of any radio, phonograph or television on any premises outside of a building or the playing of any radio or phonograph installed in a building or automobile, or a public address system or other device, so that it may be heard in the street.

(3) *Shouting, whistling, and the like.* Yelling, shouting, hooting, whistling, singing or the making of any other loud noises between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel, hospital or other type of residence, or of any persons in the vicinity.

(4) *Hawking*. The hawking of goods, merchandise or newspapers in a loud or boisterous manner so as to annoy or disturb the quiet, comfort, or repose of any other person in the area.

(5) *Animal and bird noises.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person.

(6) *Whistle or siren.* The creation of loud and excessive noise by the blowing of any whistles or sirens, except to give notice of the time to begin or stop work or as a warning of fire or danger.

(7) *Engine exhaust.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(8) *Construction noises.* The erection (including excavation therefore), demolition, alteration or repair of any building, and the excavation of streets and highways on Sundays, and on other days except between the hours of 7:00 a.m. and 10:00 p.m.

(9) *Handling merchandise.* The creation of a loud and excessive noise in connection with loading and unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(10) *Devices to attract attention.* The use of any drum, loud speaker, amplifier or other instrument or device for the purpose of attracting public attention, except as otherwise permitted in this section.

(B) *Exceptions.* None of the terms or prohibitions of the preceding section shall apply or be enforced against:

(1) *Emergency vehicles.* Any police or fire vehicle or any ambulance, while engaged upon necessary emergency business.

(2) *Highway and utility maintenance and construction.* Necessary excavations in or repairs of bridges, streets or highways, or any public utility installment by or on behalf of the city, or any public utility or any agency of the state during the night or on Sunday, when the public safety, welfare and convenience necessitates the performance of the work at such time.

(3) *Public addresses.* The reasonable use of stationary amplifiers or loud speakers for public addresses.

(4) *Sacred music.* The use of sound amplifiers or other such devices by churches, or other organizations approved by the Council, to broadcast Christmas or other holiday music, and the ringing of church bells and chimes and the giving of chime concerts between the hours of 7:00 a.m. and 10:00 p.m.

(5) *Religious, educational and recreational broadcasts.* The use of public address systems and other sound amplifiers outside of buildings or upon sound trucks between the hours of 7:00 a.m. and 9:00 p.m. for religious, educational and recreational purposes; provided, that no such sound amplifiers shall be used unless approval therefore is given by the City Clerk, and that the sound from such equipment be so regulated that it may be heard by people on the streets and will not create a nuisance.
(Ord. passed 6-20-83) Penalty, see § 10.99
Cross-reference:
Noisy dogs and cats prohibited, see § 90.05

§ 91.04 VIOLATIONS.

Each violation of any provision of this chapter shall be deemed a misdemeanor and shall be punishable by the penalty in § 10.99.
(Ord. passed 6-20-83)

CHAPTER 92: CEMETERIES

Section

General Provisions

92.01 Public burying grounds designated; establishment within city
92.02 Interments regulated
92.03 Cemetery Commission; establishment; membership; function
92.04 Superintendent; appointment; duties; keeping of records
92.05 Lots; descent of ownership of burial rights; duplicate deeds
92.06 Prices charged for graves and lots
92.07 Construction of mausoleums; performance bonds and perpetual care agreements

Perpetual Care

92.20 Issue and recordation of deeds
92.21 Payment of charges; use of interest and percentage of principal sums of money
92.22 Funds; deposits; Treasurer's bond; repayment of principal; reports
92.23 Investments; use of interest

Statutory reference:

Cemeteries, generally, see M.C.L.A. Ch. 128

GENERAL PROVISIONS

§ 92.01 PUBLIC BURYING GROUNDS DESIGNATED; ESTABLISHMENT WITHIN CITY.

All cemeteries now owned or which may here-after be acquired by the city, wherever located, and all cemeteries now within the city or which in the future may be established within the city, whether owned by the city or not, are hereby declared to be public burying grounds. No person shall establish or locate a cemetery within the city unless the necessity or desirability for the establishment of such cemetery has been affirmatively determined by the City Council and unless the City Council has approved the location of such proposed cemetery.
(Ord. 40, passed 7-18-88) Penalty, see § 10.99

§ 92.02 INTERMENTS REGULATED.

No interments of any deceased person shall be made in any place other than a public burying ground, nor shall the interment of anything other than human bodies be permitted therein.
(Ord. 40, passed 7-18-88) Penalty, see § 10.99

§ 92.03 CEMETERY COMMISSION; ESTABLISHMENT; MEMBERSHIP; FUNCTION.

(A) There shall be established a Cemetery Commission of the city consisting of five members which shall be the Mayor/City Manager, a Council Member, the DPW Superintendent and two members that are residents and electors in the city and who shall serve without pay. The members of the Cemetery Commission shall be appointed by the Mayor with the approval of the City Council. Such members are to serve until their successors have been duly appointed. The term of office shall be five years from July 1 in the year when appointed, one member to be appointed each year. The members of the Cemetery Commission existing at the time of the adoption of this chapter shall continue to serve until their terms of office shall expire. The City Council may remove a member of the Cemetery Commission for inattention to his duties, want of proper judgment, skill or taste, or for

other good cause. The Chairperson of the Cemetery Commission shall be appointed by the Mayor with the approval of the City Council.

(B) The function of such Commission shall be to make recommendations to the City Council as an advisory group only. The City Council may either reject, deny or approve such recommendations as it deems fit. (Ord. 40, passed 7-18-88; Am. Ord. 97-3, passed 5-19-97)

§ 92.04 SUPERINTENDENT; APPOINTMENT; DUTIES; KEEPING OF RECORDS.

(A) The Superintendent of Cemeteries shall be appointed by the City Manager and shall have charge of the city cemeteries. The Superintendent shall enforce the rules and regulations that may from time to time be adopted by the City Council, shall maintain order in the cemeteries and make complaints for every violation of this chapter and for violation in city-owned cemeteries of any provision of this code of ordinances or other city ordinance, shall supervise all workers, visitors and drivers and shall qualify and act as a special police officer in the city-owned cemeteries.

(B) The Superintendent of Cemeteries shall keep a register and record of all interments made in such cemeteries. Such records shall disclose the name of the deceased, the lot and block number in which the body is buried and the location of the body on the lot. Such record shall be part of the public records of the city. (Ord. 40, passed 7-18-88)

§ 92.05 LOTS; DESCENT OF OWNERSHIP OF BURIAL RIGHTS; DUPLICATE DEEDS.

(A) *Descent of ownership of burial rights.* Ownership of burial rights shall descend as directed by will or other suitable document signed and witnessed by the owner. In the event there is no such disposition, then such rights shall descend as real estate passes under the law of descent and distribution of the state.

(B) *Duplicate deeds.* In case any original deed is lost or destroyed, any person having an interest therein as appears on the index record may file with the City Clerk an affidavit showing such loss or destruction, giving the description of the lot and showing his interest therein and how such interest was acquired in accordance with the provisions of the City Charter and of this chapter, he may direct the City Clerk to issue a duplicate of the original deed and all transfers thereof appearing in the index record to such person. When so ordered, the City Clerk shall issue a duplicate deed and endorse thereon "duplicate deed issued by order of Mayor of the City of White Cloud," giving the date and sign such duplicate and attach thereto or endorse thereon a copy of the record of all transfers appearing on the index record and attach thereto a certificate substantially in the following form:

STATE OF MICHIGAN
COUNTY OF NEWAYGO
CITY OF WHITE CLOUD

> I, _____ City Clerk of the City of White Cloud, do hereby certify that the foregoing is a true and correct copy of the original deed issued by the City of White Cloud for Lot , block ___, White Cloud Cemetery, in the City of White Cloud and transfers thereof appearing on record in this office.

Witness my hand and seal of the City this ____ day of ____, 19__.

(Countersigned) _____ (Sealed) _____
Mayor City Clerk

(Ord. 40, passed 7-18-88)

§ 92.06 PRICES CHARGED FOR GRAVES AND LOTS.

The prices charged for graves and lots in the various sections of the city cemeteries, the amount of each sale to be set aside for perpetual care and the charges for the various services and special services provided by the cemetery management shall be specified in such rules and regulations as the City Council may from time to time adopt.
(Ord. 40, passed 7-18-88)

§ 92.07 CONSTRUCTION OF MAUSOLEUMS; PERFORMANCE BONDS AND PERPETUAL CARE AGREEMENTS.

No mausoleums shall be constructed in the city cemeteries without the express written permission of the City Council and then only when plans and specifications meeting the requirements of the City Council have been filed in the city offices. Performance bonds and perpetual care agreements shall meet the requirements of the Cemetery Commission.
(Ord. 40, passed 7-18-88)

PERPETUAL CARE

§ 92.20 ISSUE AND RECORDATION OF DEEDS.

To each person purchasing graves or lots in the city cemeteries and paying the sums specified by this subchapter, the City Clerk shall issue a deed signed by himself and countersigned by the Mayor and to which the city seal is to be affixed. Such deed shall state the total cost of the graves or lots purchased with perpetual care included, the name and address of the purchaser, a description of the grave, lot or parcel of land being purchased and a statement that the cost of perpetual care of such property has been paid. Such deed shall be recorded in the city offices by the City Clerk.
(Ord. 40, passed 7-18-88)
Statutory reference:
Authority of city to provide perpetual care, see M.C.L.A. § 128.1

§ 92.21 PAYMENT OF CHARGES; USE OF INTEREST AND PERCENTAGE OF PRINCIPAL SUMS OF MONEY.

Every person purchasing lots or graves in any of the city cemeteries shall pay to the City Treasurer in trust for the perpetual care of the cemeteries the sums of money specified in the rules and regulations from time to time adopted by the City Council. The interest earned thereon and 50% of the principal sums of money shall be expended for the perpetual care, maintenance and improvements to such cemeteries by or under the direction of the City Council.
(Ord. 40, passed 7-18-88)

§ 92.22 FUNDS; DEPOSITS; TREASURER'S BOND; REPAYMENT OF PRINCIPAL; REPORTS.

(A) The sums of money paid as provided for in this subchapter shall be immediately deposited in such bank, banks or trust companies as the City Council shall direct, 50% of which money shall be kept on special deposit in a fund to be known as the “Cemetery Perpetual Care Fund of the City of White Cloud.” Such funds and the interest thereon shall be kept apart from all other money belonging to the cemeteries or cemetery funds and all other funds of the city and shall only be withdrawn and invested as directed by this subchapter. The remaining 50% of which money paid as provided for in this subchapter shall be transferred to the cemetery account of the general fund and budgeted for use in the care, maintenance and improvement of the city cemeteries. The Treasurer's official bond shall cover all monies so invested for the purposes aforesaid. In no event shall the city be liable to repay the principal paid for perpetual care to any person having purchased such care.

(B) The City Clerk shall report to the City Council at the close of each fiscal year or at any other times as may be required the condition of such funds, in what securities such funds are invested, the amount of the income derived from such investments and the amount transferred.
(Ord. 40, passed 7-18-88)

§ 92.23 INVESTMENTS; USE OF INTEREST.

(A) (1) No part of a deposit for perpetual care, except the interest which shall accrue on such monies, shall be drawn from such depositories, except for an investment in such securities as may be made by life insurance companies in the state and then subject to all of the terms, conditions, limitations and restrictions imposed by state law relative to such insurance companies; provided, that the investment in notes, bonds or obligations of any county, city, village or district in the state shall not be subject to such restrictions or limitations and that notes, bonds or obligations of the city may be purchased for such investments before or after such notes, bonds or obligations are offered to the public and with or without advertising for bids thereon. Where such investments are in the form of bonds, the latter shall be registered in the name of the Cemetery Perpetual Care Fund of the city and if no provision is made for the legal registration of such bonds, the City Clerk or Treasurer shall place the following endorsement upon the back of all bonds so purchased for said Cemetery Perpetual Care Fund of the City of White Cloud, "Not transferable without the written consent of the Mayor and City Clerk endorsed hereon."

(2) No monies so deposited shall be drawn from any bank or trust company for the purpose of investment or reinvestment, except when authorized by a resolution of the City Council; provided that the City Treasurer may withdraw such funds and deposit them in some other fund of the city on a loan basis upon resolution of the City Council; and provided that such resolution shall provide for repayment of such deposit within a specified time plus interest at a rate of not less than 4% annum.

(B) Each year all interest received from the investment of the funds held for perpetual care shall be transferred to the cemetery account of the general fund and budgeted for use in the care, maintenance and improvement of the city cemeteries.
(Ord. 40, passed 7-18-88)

CHAPTER 93: PARKS AND RECREATION

Section

General Provisions

93.01 Title
93.02 Definitions
93.03 Park operating policies
93.04 Enforcement officials; procedures

Prohibited Acts

93.15 Park property
93.16 Sanitation
93.17 Traffic
93.18 Recreational activities
93.19 Behavior
93.20 Merchandising, advertising, and signs

GENERAL PROVISIONS

§ 93.01 TITLE.

This chapter shall be known and may be cited as the "City of White Cloud Ordinance Regulating Conduct in Public Parks."
(Ord. 35, passed 2-21-82)

§ 93.02 DEFINITIONS.

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

DIRECTOR. Any person designated by the City Council as in charge of any park area and its activities, and to whom all park attendants of such area are responsible.

PARK. A park, reservation, playground, beach, recreation center or any other area in the city, owned or used by the city, and devoted to active or passive recreation.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

VEHICLE. Any wheeled conveyance, whether motor powered, animal-drawn, or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages and vehicles in the service of the city parks.
(Ord. 35, passed 2-21-82)

§ 93.03 PARK OPERATING POLICIES.

(A) *Hours.* Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during designated hours. The opening and closing hours for each individual park shall be posted therein for public information.

(B) *Closed areas.* Any section or part of any park may be declared closed to the public by the City Council at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the City Council shall find reasonably necessary.

(C) *Lost and found articles.* The finding of lost articles by park attendants shall be reported to the City Council who shall make every reasonable effort to locate the owners. The City Council shall make every reasonable effort to find articles reported as lost.
(Ord. 35, passed 2-21-82)

§ 93.04 ENFORCEMENT OFFICIALS; PROCEDURES.

(A) *Officials.* The City Council and park attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(B) *Ejectment.* The City Council and any park attendant shall have the authority to eject from the park any person acting in violation of this chapter.

(C) *Seizure of property.* The City Council and any park attendant shall have the authority to seize and confiscate any property, thing or device in the park used in violation of this chapter.
(Ord. 35, passed 2-21-82)

PROHIBITED ACTS

§ 93.15 PARK PROPERTY.

No person in a park shall:

(A) *Buildings and other property.*

(1) *Disfiguration and removal.* Willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices, or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) *Restrooms and washrooms.* Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of five years shall use the restrooms and washrooms designated for the opposite sex.

(3) *Removal of natural resources.* Dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs, or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency.

(4) *Erection of structures.* Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

(B) *Trees, shrubbery, lawns.*

(1) *Injury and removal.* Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant, nor shall any person attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

(2) *Climbing trees, and the like.* Climb any tree or walk, stand or sit upon monuments,

vases, fountains, railing, fences, or gun-carriages or upon any other property not designated or customarily used for such purposes.

(3) *Hitching of animals.* Tie or hitch a horse or other animal to any tree or plant.

(C) *Wild animals, birds, and the like.*

(1) *Hunting.* Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird, nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird, nor shall he collect, remove, have in his possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen alive or dead of any of the group of tree snails. Exception to the foregoing is made in that snakes known to be deadly poisonous, such as rattle snakes, moccasins, coral snakes, or other deadly reptiles, which may be killed on sight.

(2) *Feeding.* Give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.
(Ord. 35, passed 2-21-82) Penalty, see § 10.99

§ 93.16 SANITATION.

No person in a park shall:

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

(B) *Refuse and trash.* Have brought in or shall dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.
(Ord. 35, passed 2-21-82) Penalty, see § 10.99

§ 93.17 TRAFFIC.

No person in a park shall:

(A) *State motor vehicle laws apply.* Fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles, together with such regulations as are contained in this chapter and other ordinances.

(B) *Enforcement of traffic regulations.* Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the City Council.

(C) *Obey traffic signs.* Fail to observe carefully all traffic signs, indicating speed, direction, caution, stopping, or parking, and all others posted for proper control and to safeguard life and property.

(D) *Speed of vehicles.* Ride or drive a vehicle at a rate of speed exceeding 15 miles an hour, except upon such roads as the Director may designate, by posted signs, for speedier travel.

(E) *Operation confined to roads.* Drive any vehicle on any area except the paved or graveled park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas

by the City Council.
(Ord. 35, passed 2-21-82) Penalty, see § 10.99

§ 93.18 RECREATIONAL ACTIVITIES.

No person in a park shall:

(A) *Bathing and swimming.*

(1) *Designated areas.* Swim, bathe, or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefore, and in compliance with such regulations as are herein set forth or may be hereafter adopted. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat when such activity is prohibited by the City Council upon a finding that such use of the water would be dangerous or otherwise inadvisable.

(2) *Certain hours.* Frequent any waters or places designated for the purpose of swimming or bathing, or congregate thereat, except between such hours of the day as shall be designated by the City Council for such purposes for each individual area.

(3) *Structure on beach.* Erect, maintain, use or occupy on or in any beach or bathing area any tent, shelter or structure of any kind unless there shall be an unobstructed view into said tent, shelter or structure from at least two sides, nor shall any guy wire, rope or extension or exterior brace or support be connected or fastened from any such structure to any other structure, stake, roof or other object outside thereof.

(4) *Costume.* Allow himself to be so covered with a bathing suit as to indecently expose his person or call forth merited criticism. No person shall appear in bathing costume at any place in the parks except within the limits of designated bathing places or areas, and all bathing costumes shall conform to commonly accepted standards.

(5) *Bath-houses.* Dress or undress on any beach, or in any vehicle, toilet, or other place, except in such bathing houses or structures as may be provided for that purpose.

(B) *Boating.*

(1) *Designated areas.* Bring into or operate any boat, raft, or other water craft, whether motor-powered or not, upon any waters, except at places designated for boating by the City Council. Such activity shall be in accordance with applicable regulations as are now or may hereafter be adopted.

(2) *Operation of boats.* Navigate, direct, or handle any boat in such a manner as to unjustifiably or unnecessarily annoy or frighten or endanger the occupants of any other boat or any other person.

(C) *Hunting and firearms.* Hunt, trap or pursue wildlife at any time. No person shall use, carry, or possess firearms of any description, or air-rifles, spring-guns, bow-and-arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kinds of trapping device. Shooting into park-areas from beyond park boundaries is forbidden.

(D) *Picnic areas and use.*

(1) *Regulated.* Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

(2) *Availability.* Violate the regulation that use of the individual fireplaces together with tables and benches follows generally the rule of "first come, first served."

(3) *Non-exclusive.* Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area facilities for an unreasonable time if the facilities are crowded.

(4) *Duty of picnicker.* Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be

properly disposed of elsewhere.
(Ord. 35, passed 2-21-82) Penalty, see § 10.99

§ 93.19 BEHAVIOR.

No person in a park shall:

(A) *Intoxicating beverages.*

(1) *Prohibition.* Have brought alcoholic beverages, nor shall any person drink alcoholic beverages at any time in the park.

(2) *Drunkenness.* Have entered or be under the influence of intoxicating liquor.

(B) *Fireworks and explosives.* Brought, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo rockets, or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints.

(C) *Domestic animals.* Have been responsible for entry of a dog or other domestic animal into areas other than automobile parking concourses and walks immediately adjacent thereto, and in such other areas as may be clearly marked by signs bearing the words "Domestic animals permitted in this area." Nothing herein shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than 15 feet in length.

(D) *Reservation of facilities.* Occupy any seat or bench, or enter into or loiter or remain in any pavilion or other park structure or section thereof which may be reserved and designated by the Board for the use of the opposite sex. Exception is made for children under five years-of-age.

(E) *Dress.* Appear at any place in other than proper clothing. With the exception of the restricted bathing areas, "properly clothed" shall be construed to prohibit the wearing of trunks or clothing that does not cover the upper portion of the body.

(F) *Alms.* Shall solicit alms or contributions for any purpose, whether public or private.

(G) *Fires.* Build or attempt to build a fire except in such areas and under such regulations as may be designated by the City Council. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other flammable material within any park or on any highway, road or street abutting or contiguous thereto.

(H) *Closed areas.* Enter an area posted as "Closed to the Public," nor shall any person use or abet the use of any area in violation of posted notices.

(I) *Games of chance.* Gamble or participate in or abet any game of chance.

(J) *Going onto ice.* Go onto the ice on any of the waters, except such areas as are designated as skating fields, provided a safety signal is displayed.

(K) *Disorderly conduct.* Engage in any disorderly conduct or behavior tending to a breach of the public peace.

(L) *Exhibit permits.* Fail to produce and exhibit any permit from the City Council he claims to have upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

(M) *Interference with permittees.* Disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a permit.
(Ord. 35, passed 2-21-82) Penalty, see § 10.99

§ 93.20 MERCHANDISING, ADVERTISING, AND SIGNS.

No person in a park shall:

(A) *Vending and peddling.* Expose or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the City Council.

(B) *Advertising.* Announce, advertise, or call the public attention in any way to any article or service for sale or hire.

(C) *Signs.* Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.
(Ord. 35, passed 2-21-82) Penalty, see § 10.99
Cross-reference:
Peddling concessionary food products in parks, see § 113.19

CHAPTER 94: STREETS AND SIDEWALKS

Section

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OPENINGS AND EXCAVATIONS

§ 94.01 DEFINITION.

For the purpose of this subchapter, ***PERSON*** shall mean and include one or more natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities capable of being sued. (Ord. 29, passed 11-17-80)

§ 94.02 PERMIT REQUIRED; APPLICATION.

(A) Unless acting under a contract with the city, it shall be unlawful for any person other than a duly authorized city official or employee in the course of his employment to make or cause or permit to be made any excavation or opening in or under the surface or pavement of any street, alley, sidewalk or other public place within the limits of the city, without first having obtained and having in force a permit as hereinafter provided.

(B) Any person desiring to procure a specific permit as herein provided shall file with the City Clerk at least 24 hours before the time proposed to begin such work a written application on a blank form prepared and provided by the city. Such applications shall state the name and address of the applicant, the name of the street, alley, sidewalk or public place in or under which it is desired to make the excavation or opening, the kind of pavement or sidewalk thereon, the purpose, size and location, as near as can be determined, of the proposed excavation or opening, the name, address, lot and subdivision of the person for whose benefit the work is to be done. Such application shall also describe the time within which the work in said application shall be completed. When required by the City Clerk, the application shall be accompanied by a plat or pencil tracing or sketch showing the location, character and dimensions of the proposed excavation or opening for the installation of new work, or the location and character of the alterations involving the location of pipes, poles, conduits, wires, or other conductors. (Ord. 29, passed 11-17-80) Penalty, see § 10.99

§ 94.03 GRANTING OF PERMIT; PERMIT TO CONSTITUTE AGREEMENT.

The City Clerk, upon filing of the application and the payment of a permit fee in such amount as the City Council may set from time to time by resolution, may, in the City Clerk's discretion, issue a permit which issuance shall constitute an agreement by the applicant with the city, that applicant shall restore that portion of the premises not included within a traveled roadway to its original condition and further, that applicant shall pay all costs of restoration of that portion of the premises within the traveled roadway in the manner hereinafter set forth.
(Ord. 29, passed 11-17-80; Am. Ord. passed 10-19-92)

§ 94.04 GUARDING EXCAVATIONS AND OBSTRUCTIONS.

Any person making or causing to be made an excavation or opening in any street, alley, sidewalk or other public place or within five feet of the line of any street, or public place, shall, at all times that the same remains open or danger exists therefrom, keep such excavation or opening fenced or barricaded and properly lighted at night so as to warn all persons of such excavation or opening and all obstructions. No unauthorized person shall remove or interfere in any way with such lantern or other means of signal or any such barriers. No unauthorized person shall remove, extinguish, or in any other way interfere with the barricades, flares, lanterns, or other danger signals placed for the protection of excavations or obstructions.
(Ord. 29, passed 11-17-80) Penalty, see § 10.99

§ 94.05 REQUIREMENTS FOR WORK UNDER PERMIT.

In no case shall a person remove a greater area of surface and at no other location than that specified in the application for permit; provided, however, that at the time of actually doing the work, if it shall be necessary to remove a greater area of surface than originally applied for, the applicant shall first notify and procure the consent of the City Clerk to do so upon the express condition that he shall and will before noon of the following business day file a supplementary application for the making of an additional excavation. All work shall be performed in such a way as to cause a minimum of inconvenience and restriction to both pedestrian and vehicular traffic. No dirt or other material shall be placed on sidewalks. All work shall be prosecuted so as not to interfere with any access to any fire houses, fire hydrants, and United States mail boxes.
(Ord. 29, passed 11-17-80) Penalty, see § 10.99

§ 94.06 RESTORATION OF PREMISES.

(A) All excavations shall be restored to their original condition. All that portion of the excavation not within the traveled portion of the roadway, sidewalk or pavement shall be restored by the applicant in a manner satisfactory to the City Superintendent of the Department of Public Works. Failure of the applicant to restore said portion of said excavation to its original condition in a manner satisfactory to the City Superintendent of the Department of Public Works shall constitute a violation of this subchapter and shall subject the applicant to the penalties for violation set forth in § 10.99.

(B) All excavations made within the traveled portion of a roadway, sidewalk or pavement shall be restored to their original condition by the city. All backfill and surface replacement shall be performed by the city under the supervision of the City Superintendent of the Department of Public Works. The applicant shall be required to pay all the expenses incurred by the city for furnishing such material, doing such work, and taking such means as in the sole discretion of the City Superintendent of the Department of Public Works shall be required to properly restore and secure against settlement of the street and sidewalk, pavement, curb and gutter necessary to be replaced in consequence of such excavation, opening or disturbance. Failure of the applicant to pay all costs incurred in the restoration of the site to its original condition when due shall be considered a violation of this subchapter and shall subject the applicant to the penalty for violation set forth in § 10.99. Payment for the restoration of the excavation to its original condition shall be made within 30 days after billing date by the city. The sum or sums of money collected for restoration work shall be paid into the City Treasury and used exclusively for the purpose of paying for the time and material costs of the restoration project.
(Ord. 29, passed 11-17-80)

§ 94.07 PROTECTION OF PUBLIC SERVICE CORPORATIONS.

The person to whom a permit is granted shall give notice in writing to any corporation whose pipes, poles, mains or conduits are laid in the street about to be disturbed by such excavations at least 24 hours before commencing the same, and shall at his own expense sustain, secure and protect such pipes, poles, mains or conduits from injury and replace and pack the earth with the same sod that has been removed, loosened or disturbed, under or around, so that they shall be well and substantially supported. If any person shall fail to sustain, secure or protect such pipes, poles, mains or conduits from injury or to replace and pack the earth under and around them, the provisions of this section will require that the same may be done by the corporation to whom the same may belong and the cost thereof and any damage sustained by such corporation thereby shall be paid by such person, and in default thereof, such corporation may maintain an action against him therefore.
(Ord. 29, passed 11-17-80) Penalty, see § 10.99

§ 94.08 PROTECTION OF CITY FROM LIABILITY RESULTING FROM PERMIT OPERATIONS.

The person to whom such permit is granted shall do no injury in any street, avenue, alley, lane, sidewalk, park or other public place or to any shade trees, shrubs, lawns, concrete paving or sidewalk, or other like improvements, or in any manner disturb or interfere with any sewer, water main, pipe, or conduit, or any other public or private appliances now or hereafter constructed by any authorized persons, and shall fully indemnify and save harmless the city from any and all claims or damages for which the same city might be made or become liable to pay by reason of construction, maintaining, or repairing or operation of said poles, conduits, wires, mains, pipes or any other apparatus connected therewith or otherwise arising from the use or possession of any of the rights and privileges granted or from any neglect on the part of said persons, or of his employees to comply with the provisions of this subchapter or ordinances of the city, and especially shall indemnify the city and assume all liability and damages which may arise, come or occur to the city from any injury to persons or property by reason of the doing of any work herein mentioned, or the neglect of any person or his employees to comply with the provisions of this subchapter or other ordinances relative to the use of streets, or other public places, especially as to the putting up of lights or barriers at or around excavations. The acceptance by any person of any permit under the provisions of this subchapter shall be an agreement by it to pay the city any sum of money for which the city may become liable from or by reason of such injury. Such person shall be given written notice of any and all forms of claims, suits and demands filed with the city within 30 days after receiving same, and shall be given an opportunity to defend same.
(Ord. 29, passed 11-17-80) Penalty, see § 10.99

§ 94.09 DUTIES OF POLICE.

All police officers shall be vigilant in the enforcement of this subchapter and shall report through proper channels any violation hereof to the City Clerk upon observing and being informed of the opening or excavation in each street, and shall require the person making such opening or excavation to exhibit the permit therefore, and if none has been given, or if the excavation thereof be refused, the officer shall, without delay, enforce the provisions of this subchapter.
(Ord. 29, passed 11-17-80)

SIDEWALK REPAIR AND CONSTRUCTION

§ 94.20 REPAIR PROCEDURE.

Pursuant to the provisions of §§ 2.2(u) and 7.6 of the City Charter, the sidewalks within the city shall be repaired in accordance with the following procedure:

(A) At the direction of the City Council, a determination shall be made of those sidewalks in disrepair which may constitute a hazard or public nuisance.

(B) The City Clerk shall thereafter notify, by first class mail, the owners of adjacent or abutting

property, at the last known address as appears on the tax roll, said notice being substantially in the following form:

NOTICE TO REPAIR SIDEWALK

Notice is hereby given that the Superintendent of Public Works has determined that the sidewalk adjacent to or abutting your property as hereinafter described is in a state of disrepair and thus constitutes a public hazard or nuisance:

(Lot number, and the like)

(Number of lineal feet of sidewalk in disrepair)

Pursuant to Sections 2.2(u) and 7.6 of the City Charter, it is the duty of all property owners to maintain abutting or adjacent sidewalks in a safe and non-hazardous condition.

If the above sidewalk is not repaired within 45 days from the date of receipt of this notice the same shall be done by the city and the cost thereof will become a lien upon the property by special assessment and entered on the tax rolls. You may contact the City Clerk or Superintendent of Public Works for assistance if you desire to use one of the following payment alternatives:

(1) Cost plus 6% interest levied as a special assessment tax, equally divided over a period of three years.

(2) ------ Equally divided installments added to your quarterly water bill, not to exceed three years and including 6% interest if period exceeds one year.

(3) Request the city to make the repairs or contract for the making of the repairs at a predetermined price, the payment of which to be made by you upon completion of the work.
(Ord. 17, passed 11-14-66)

§ 94.21 RESPONSIBILITY FOR CONSTRUCTION, MAINTENANCE, AND REPAIR.

All sidewalks shall be built, maintained and repaired at the expense of the owner, or owners, of the lots or premises adjoining or abutting upon such sidewalks, to their property lines. The city will be responsible for sidewalks crossing alleys and that portion of the sidewalk between existing sidewalks to the property line and to the curb, at intersections where there is a sidewalk or where a sidewalk is deemed necessary. Business places will be responsible for building, maintaining and repairing the sidewalk from the building to the curb.
(Ord. passed 9-5-75)

§ 94.22 PERMIT REQUIRED.

No person shall construct or repair any sidewalk, crosswalk, driveway approach or curb without first obtaining a written permit from the City Clerk.
(Ord. passed 9-5-75) Penalty, see § 10.99

§ 94.23 WORK TO COMPLY WITH LINE, GRADE, SLOPE AND SPECIFICATIONS.

No person shall construct or repair any sidewalk, crosswalk, driveway approach or curb, except in accordance with the line, grade, slope and specifications established by the City Engineer or his agent. Completed work will be reviewed by the City Engineer.
(Ord. passed 9-5-75) Penalty, see § 10.99

§ 94.24 CONCRETE DRIVEWAY AND SIDEWALK SPECIFICATIONS.

(A) *Description.* This work shall consist of constructing a sidewalk of a single course of concrete, in accordance with these specifications and in conformity with the lines and grades established by the Engineer or his agent. Unless otherwise indicated or noted on plans, the thickness of the sidewalk shall be four inches except in driveways where it shall be six inches thick.

(B) *Materials.* *(Amended 10/21/2020)*

(1) The concrete shall be air-entrained and shall have the cement content of six (6) sacks per cubic yard of concrete. The entrained air content in the concrete as placed shall be between 5.0 and 8.0 percent. The concrete shall be composed of Portland cement, fine aggregate, coarse aggregate, and water in the proper proportions specified in Section 601 of MDOT 2003 Standard Specifications for Construction to obtain a good mix. The coarse aggregate used to prepare concrete for use in public right-of-way shall be class 6AA limestone only unless otherwise specified by the City Engineer. Where concrete is placed by a slip-form machine, the slump shall be less than 1.5 inches and the minimum air content shall be greater than 4.5 percent.

(2) The concrete shall have a compressive strength at 28 days of 3500 pounds or more per square inch and shall be either 35P or 35S MDOT mixture. Delivery tickets for each batch shall show the amount of cement, fine aggregate, coarse aggregate, and water and one copy of each delivery ticket shall be given to the City Engineer or his representative. The temperature of the concrete as discharged from the mixer shall not be greater than 90 degrees F, or the concrete will be rejected.

(3) Curing compound shall meet the requirements for Transparent Membrane Curing Compound in Section 903.06B of the MDOT 2003 Standard Specifications.

(C) *Construction methods.*

(1) *Preparation of subgrade.* The subgrade shall be formed by trenching and filling to the required elevation for bottom of concrete. All fill shall be good clean sand. The sub-grade shall be thoroughly tamped to insure its stability. All roots must be removed.

(2) *Forms.* The forms shall be of wood or metal, straight and free from warp and of sufficient strength to resist springing during the process of depositing concrete against them. Forms shall be the full depth of the concrete. The side forms shall be firmly staked to the required line and grade and shall provide for a transverse slope of ¼-inch per foot toward the centerline of the street, unless otherwise provided. Metal forms may be used if concrete is poured continuously for 100 feet or more. If wood forms are used, they shall be staked at no greater than four feet apart.

(3) *Placing and finishing concrete.* The subgrade shall be thoroughly wetted, and the concrete shall be deposited thereon to the proper depth. No concrete shall be placed when its slump exceeds four inches. The concrete shall be thoroughly spaded along the faces of the forms and adjacent to joints before finishing operations are started. The concrete shall be alternately tamped and struck off with a strike board until all voids are removed and the surface has the required grade and cross section. The surface shall be floated with a steel float just enough to produce a smooth surface free from irregularities. All edges and joints shall be rounded to a radius of ¼-inch with an approved finishing tool. The surface shall then be brushed to slightly roughen it and remove the finishing tool marks.

(4) *Joints.*

(a) Joints shall be constructed true to line with their faces perpendicular to the sidewalk and shall not vary more than ¼-inch from their designated position. Transverse joints shall be constructed at right angles to the centerline of the sidewalk. Expansion joint filler shall extend to the full depth of the joint and the top shall be flush with the surface of the sidewalk.

(b) One-half-inch transverse expansion joints shall be placed through a concrete

sidewalk at uniform intervals of not more than 50 feet. One-half-inch expansion joints shall be placed between the sidewalk and back of abutting parallel curb and gutter, and between the sidewalk and buildings or other rigid structures, or where new sidewalk meets old sidewalk. One-half-inch expansion joints shall be placed between sidewalk approaches and the back of the curb and gutter.

(c) Any new concrete abutting next to old concrete has to have a clean, straight cut line with an expansion joint. When new concrete is poured, false expansion joints shall appear not less than every five feet or more than six feet.

(5) *Contraction joints.* A sidewalk five feet in width shall be divided into unit areas of 25 square feet. Insofar as possible, the maximum unit areas should not exceed 36 square feet nor be less than 16 square feet. The unit areas shall be produced by use of slab division forms extending to the full depth of the concrete or by cutting joints in the concrete after floating to a depth of not less than one quarter the thickness of the sidewalk. The cut joints shall be not less than €-inch nor more than ¼-inch in width and shall be finished substantially true to line.

(6) *Clean-up.* All wood forms and stakes are to be removed upon completion, along with excess concrete. Backfill and clean-up of all of the excavated area shall be performed in a workman-like manner.

(D) *Curing.* Immediately after the concrete has been finished and before the initial glaze has set, the white membrane curing compound shall be applied at a rate of one gallon per 200 square feet of surface.

(E) *Cold weather paving.* All the methods and precautions set forth in the current MSHD constructional manual shall apply.
(Ord. passed 9-5-75) Penalty, see § 10.99

§ 94.25 INSURANCE AND BOND REQUIREMENTS.

(A) Contractors are required to furnish the city with a Certificate of Insurance for Worker's Compensation and Manufactures Contractor's Liability and/or Comprehensive General Liability Insurance with no less than 30-day notice of cancellation and liability limits of $100,000 and $300,000, and $100,000 property damage.

(B) Performance bonds are required except at the discretion of the City Engineer or his agent.
(Ord. passed 9-5-75)

CHAPTER 95: HAZARDOUS MATERIALS

Section

95.01 Purpose
95.02 Definitions
95.03 Charges imposed on responsible party
95.04 Billing procedures
95.05 Other remedies

§ 95.01 PURPOSE.

In order to protect the city from incurring extraordinary expenses resulting from the utilization of city resources to respond to an incident involving hazardous materials, the City Council authorizes the imposition of charges to recover reasonable and actual costs incurred by the city, through the White Cloud Area Fire Department, in responding to calls for assistance in connection with a hazardous materials release.
(Ord. 97-2, passed 5-19-97)

§ 95.02 DEFINITIONS.

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

HAZARDOUS MATERIALS. Includes, but is not limited to a chemical that is a combustible liquid, a flammable gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable reactive or water reactive.

RELEASE. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment.

RESPONSIBLE PARTY. Any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials release.
(Ord. 97-2, passed 5-19-97)

§ 95.03 CHARGES IMPOSED UPON RESPONSIBLE PARTY.

Where the White Cloud Area Fire Department responds to a call for assistance in connection with a hazardous materials release, actual costs incurred by the city, through the intergovernmental agreement to operate the joint fire department, responding to such a call shall be imposed upon responsible parties, including, but not limited to:

(A) $350 per hour, or fraction thereof, for each pumper required, in the opinion of the officer in command, to stand by at the hazardous materials incident. For each hour, or fraction thereof, that the pumps are activated, an additional sum of $50 per hour shall be charged.

(B) $200 per hour, or fraction thereof, for each water tender required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.

(C) $150 per hour, or fraction thereof, for each additional White Cloud Area Fire Department vehicle required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.

(D) All personnel-related costs incurred by the city as a result of the White Cloud Area Fire Department responding to the hazardous materials incident. Such costs may include, but are not limited to, wages, salaries, fees and fringe benefits and insurance for on-call fire fighters. Such personnel-related charges shall commence after the first hour that the fire department has responded to the hazardous materials incident and shall continue until all White Cloud Area Fire Department personnel have concluded hazardous materials incident-related responsibilities.

(E) Other expenses incurred by the city as a result of the White Cloud Area Fire Department responding to the hazardous materials incident, including but not limited to, rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous materials incident.

(F) Charges to the city, directly or through the Fire Board, imposed by any local, state or federal government entities related to the hazardous materials incident.

(G) Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.
(Ord. 97-2, passed 5-19-97)

§ 95.04 BILLING PROCEDURES.

(A) Following the conclusion of the hazardous materials incident, the Fire Chief shall submit a detailed listing of all known expenses to the chairman of the White Cloud Area Fire Board, who shall cause to be prepared an invoice to the responsible party for payment. The invoice shall demand full payment within 30 days of receipt of the bill. Any additional expenses that become known to the Fire Chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party.

(B) For any amounts due that remain unpaid after 30 days, the Fire Board, on behalf of the city, shall impose a late charge of one percent per month or fraction thereof.
(Ord. 97-2, passed 5-19-97)

§ 95.05 OTHER REMEDIES.

The city, independently or through the Fire Board, may pursue any other remedy or may institute any appropriate action or proceeding in a court of competent jurisdiction to collect charges imposed under this chapter. The recovery of charges imposed under this chapter does not limit the liability of responsible parties under local ordinance or state or federal law, rule or regulation.
(Ord. 97-2, passed 5-19-97)

CHAPTER 96: FIREWORKS

Section

96.01	Title
96.02	Intent Purpose and Short Title
96.03	Scope and Application
96.04	Definitions
96.05	Prohibited Conduct & Violations
96.06	Display and Articles Pyrotechnic Fireworks
96.07	Penalties and Enforcement
96.08	Effective Date

§ 96.01 TITLE AND PURPOSE.

(A) This chapter shall amend the City Fireworks Ordinance Ord. 63 of 7-6-98.

(B) This ordinance shall be known as the "City of White Cloud Fireworks Ordinance"

§ 96.02 INTENT PURPOSE AND SHORT TITLE

(A) Intent and Purpose:
The City Council recognizes that there are certain uses and activities which can have significant negative impacts upon the community, as well as adjoining and nearby properties and residences. Such uses and activities include the use of fireworks. The City Council finds that it is in the best interests of the city and its property owners and residents to regulate firework uses and activities. The City Council also finds that this ordinance will promote the public health, peace, safety and welfare of city residents, property owners, and visitors to the city.

(B) Short Title:
This ordinance shall be known and may be cited and referred to as the "City of White Cloud Fireworks Ordinances," and shall be referred to hereinafter as the "Ordinance."

§ 96.03 SCOPE AND APPLICATIONS

(A) Minimum Standards:
The terms and provisions of this ordinance shall be interpreted as applied as minimum standards and requirements for the promotion and protection of the public health, safety and welfare, and for the public and private property within the City.

(B) Interpretation:
This ordinance is intended to supplement other laws and ordinances. If this ordinance imposes more stringent requirements than other laws or city ordinances, the provisions of this ordinance shall govern, except as otherwise expressly herein provided.

§ 96.04 DEFINITIONS

(A) For the purposes of this ordinances, the following definitions and meanings shall apply:
The Act shall mean the Michigan Fireworks Safety Act, Public Act No. 256 of the Public Acts of Michigan of 2011, as amended.

(B) Agricultural and wildlife fireworks shall mean as defined in the Act.

(C) Articles pyrotechnic shall mean as defined in the Act.

(D) Consumer fireworks shall mean as defined in the Act.
(E) Display fireworks shall mean as defined in the Act.
(F) Fireworks shall mean as defined in the Act.
(G) Special effects shall mean as defined in the Act.
(H) Novelties means that term as defined in the Act.
(a) Toy Plastic or paper caps for toy pistols in sheets, strips, rolls or individual caps containing not more than .25 grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
(b) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (a) are used, that are constructed to that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart of be separated so as to form a missile by the explosion.
(c) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
(d) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke device.
(I) Person means and individual, agent, association, charitable organized, company limited liability company, corporations, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.
(J) Alcoholic liquor means that term as defined in Section 1d of the Michigan Vehicle Code, Act 300 of the Public Acts of Michigan of 1949, as amended from time to time.
(K) Controlled substance means that term as defined in Section 8b of the Michigan Vehicle Code, Act 300 of the Public Acts of Michigan of 1949, as amended from time to time.

Except as otherwise provided, other terms to this Article shall have the meaning ascribed to them in the Act.

§ 96.05 PROHIBITED CONDUCT AND VIOLATIONS

Fireworks Regulations. The following shall be applicable throughout the City of White Cloud on the following mentioned days after 11am.

(A) No person shall ignite, shoot off, discharge or use consumer fireworks in the city. This prohibition shall not preclude a person from igniting, discharging, shooting off or using consumer fireworks within the city on the day preceding, the day of, or the day after a national holiday, consistent with the Act. Nothing herein shall be construed or interpreted to limit the authority of the city to enforce those of its ordinances violated as a result of the discharge of consumer fireworks at any time, including, without limitation, any city noise or nuisance ordinance or fire code.

Persons may ignite, discharge or use consumer fireworks only on the following days:

(1) 11:00am on December 31 until 1:00am on January 1.

(2) The Saturday & Sunday immediately preceding Memorial Day from 11:00am until 11:45pm on each of those days.

(3) June 29 to July 4 from 11:00am until 11:45pm on those days.

(4) July 5, if that date is a Friday or Saturday. From 11:00am until 11:45pm.

(5) The Saturday and Sunday immediately preceding Labor Day from 11:00am until 11:45pm on each of those days.

(B) No person shall ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organizations or person(s) express permission to use those fireworks on those premises.

(C) No personal shall recklessly endanger the life, health, safety or well-being of any person or property by the ignition, shooting off, discharge or use of consumer fireworks.

(D) No person shall sell consumer fireworks to the person under the age of 18 years.

(1) No person under the age of 18 shall use, possess, shoot off, explode or cause to explode any consumer fireworks within the city except while in the presence and under the direct control and supervision of a parent, guardian or other responsible adult.

(2) No person under the age of 18 years shall buy, purchase, possess, acquire or obtain any consumer fireworks within the city.

(E) No person shall use fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. As use in this subsection:

(F) Regardless of calendar date, no person shall use, shoot off, ignite or discharge modified enhanced or altered consumer fireworks not otherwise authorized by the Act.

(G) No person shall ignite, discharge or use consumer fireworks within the City of White Cloud the day preceding, the day of, or the day after the national holidays listed, between the hours of 1:00am and 8:00am.

§ 96.06 DISPLAY AND ARTICLES PYROTECHNIC FIREWORKS

(A) Pursuant to the Act, the city may grant a permit, upon application in writing on forms provided by the department of licensing and regulatory affairs, for the use of the following:

(1) Agricultural or wildlife fireworks,

(2) Articles pyrotechnic,

(3) Display Fireworks, or

(4) Special effects manufactured for outdoor pest control.

(B) Such a permit granted by the city shall be subject to payment of a fee, as set by resolution of the city council, to the city, and shall be for either public or private displays within the city by the city, fair associations, amusement parks, or other organizations or individuals approved by the city, as long as the applicable conditions and requirements of the Act are complied with.

(C) Before a permit for display fireworks or articles pyrotechnic fireworks ignition is granted, the person, firm, or corporation applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the city to satisfy any claims for damages to the property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, and to protect the public.

(D) The city shall not approve or otherwise grant a permit for display fireworks or pyrotechnic fireworks ignition to a nonresident person, firm, or corporation until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.

(E) Pursuant to the Act, the city shall rule on the competency and qualification of articles pyrotechnic and display fireworks operators as required under NFPA 1123, as the operator has furnished in his or her application form, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks before granting permits.

§ 96.07 PENALTIES AND ENFORCEMENT

(A) Penalty:

Any person who violates this section shall be subject to a civil fine of $1,000.00. From the fine collected for a violation of this section, $500.00 shall be remitted to the city's department of public safety as provided in section 7 (3) of Act 256, MCL 28.457 (3).

A civil infraction may be issued under this section by any officer of the city's department of public safety or fire department command or supervisory personnel.

Injunction:

Any violation of this ordinance is also hereby declared to be a nuisance per se. The remedies are deemed to be cumulative, not exclusive or elective. In addition to, or in lieu of, seeking to enforce this ordinance by proceeding under he subsection above, the city or any city resident may institute an appropriate action in a

court of general jurisdiction seeking injunctive or equitable relief.

(B) Enforcement and administration

This ordinance shall be enforced and administered by the Zoning Administrator, Chief of Police, any city Police Officer or such other City official as may be designated from time to time by resolution by the City Council.

§ 96.08 EFFECIVE DATE

This ordinance shall take effect immediately upon publication.

Ordinance 2019-02 Declared Adopted on 7/2/2019.

CHAPTER 97: CITY OF WHITE CLOUD EMERGENCY MANAGEMENT ORDINANCE

Section

97.01	Title
97.02	Definitions
97.3	Emergency Management Coordinator
97.03	Local State of Emergency
97.04	Emergency Orders
97.05	Emergency Authorization
97.06	Powers Reserved

§ 97.01 TITLE AND PURPOSE.

(A) This ordinance shall be known as the "City of White Cloud Emergency Management Ordinance."

§ 97.02 DEFINITIONS

(A) Disaster:

"Disaster" means 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 storm, tornado, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peace time radiological incident, major transportation accident, hazardous materials incident, epidemic, air contamination blight, drought, infestation, explosion, or hostile military action or paramilitary action, or similar occurrences resulting from terrorist activities, riots, or civil disorders.

(B) Local State of Emergency:

"Local state of Emergency" means (1) a proclamation or declaration by the Mayor that activates the response and recovery aspects of any and all applicable local or interjurisdictional emergency operations plans and authorizes the furnishing of aid, assistance, and directives under those plans, and (2) a proclamation or declaration by the Mayor that is authorized under this Chapter when the Mayor finds a disaster has occurred or the threat of disaster exists.

§ 97.3 EMERGENCY MANAGEMENT COORDINATOR

The appointment of the City emergency management coordinator as authorized by the Emergency Management Act, PA 390 of 1976 (MCL 30.401 et seq.), as amended, will be by resolution of the City Council.

§ 97.03 LOCAL STATE OF EMERGENCY

(A) The Mayor may declare a local state of emergency throughout the whole or any part of the City if the Mayor finds that a disaster has occurred, or the threat of disaster exists.
(B) A local state of emergency may not be continued or renewed in excess of seven days except by consent of the City Council given via resolution.
(C) The City Council may terminate a local state of emergency at any time.
(D) A declaration of a local state of emergency will be filed pursuant to the Emergency Management Act, PA 390 of 1976 (MCL 30.401 *et seq.)*
(E) A local state of emergency is effective upon its written declaration.

§ 97.04 EMERGENCY ORDERS

(A) During a local state of emergency, the Mayor may issue written emergency orders doing one or more of the following:

(1) Implementing travel restrictions on county, City, and local public or private roads.

(2) Implementing a curfew.

(3) Restricting or prohibiting access to public property and facilities.

(4) Ordering that any meeting of a City public body be conducted virtually, as authorized by Michigan's Open Meetings Act, PA 267 of 1976 (MCL 15.261 *et seq*.), as amended.

(B) Emergency orders will have no effect following the termination or expiration of the local state of emergency.

(C) Emergency orders must state if a violation is a misdemeanor or a municipal civil infraction.

(1) Violations designated as misdemeanors are punishable by a fine not to exceed $500 and/or 90 days jail plus the cost of prosecution.
(2) Violations designated as municipal civil infractions are punishable by a civil fine not to exceed $500 plus the cost of prosecution.

(D) Emergency orders are effective upon their publication in a manner reasonably calculated to adequately inform the public.
(E) The Mayor may command the assistance of able-bodied citizens to aid in the enforcement of the emergency orders or other disaster relief, prevention, or mitigation efforts.

§ 97.05 EMERGENCY AUTHORIZATIONS

(A) Subject to subparagraph (b) below, during a local state of emergency, the City Manager may do one or more of the following:

(1) Expend funds, make contracts, and obtain and distribute equipment, materials, and supplies for disaster relief, prevention, or mitigation purposes.
(2) Direct City resources to provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster.
(3) Direct and coordinate local multi-agency response(s) to emergencies within the City.

(4) Appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire, medical, and police personnel, and other disaster workers.

(B) The total expended funds and any contract authorized by subparagraph (A) above will not exceed $20,000 without the prior approval of the City Council.

§ 97.06 POWERS RESERVED

Nothing in this Ordinance will limit the power, privilege, authority, or remedies otherwise lawfully provided to or available to the City.

TITLE XI: BUSINESS REGULATIONS

Chapter

110. **AUCTIONS**

111. **COMMUNITY ANTENNA TELEVISION**

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CHAPTER 110: AUCTIONS

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§ 110.01 SHORT TITLE.

This chapter shall be known as the "Auction Ordinance of the City of White Cloud."
(Ord. 51, passed 12-21-92)

§ 110.02 LICENSE REQUIRED.

No person shall engage in the business of auctioneer or sell or cry off at auction any real estate, goods, wares, or merchandise of any description within the city without first obtaining a license therefore. No such license shall be granted except upon certification by the City Clerk.
(Ord. 51, passed 12-21-92) Penalty, see § 10.99

§ 110.03 ELIGIBILITY; LICENSE APPLICATION; FEES AND BOND.

(A) No license shall be granted to any minor. Any person desiring to be licensed as an auctioneer shall file his or her application with the City Clerk.

(B) Before a license shall be issued, the applicant shall pay to the City Clerk a license fee in the amount prescribed by the City Council from time to time by resolution, and shall also execute a bond in the penal sum of $5,000 conditioned upon the faithful compliance by the applicant with all provisions of the City Charter and city ordinances; upon the faithful accounting to the consignor or owner of the goods entrusted to and money received; and for the protection of any person purchasing goods from said auctioneer who shall be injured by unlawful or fraudulent sale by said auctioneer.
(Ord. 51, passed 12-21-92)

§ 110.04 PERMIT REQUIRED; COMPLIANCE WITH REGULATIONS.

No person shall sell, dispose of, advertise for sale or offer for sale at a public auction in this city, any property of any kind, without a permit so to do, issued as hereinafter set forth, except as stated in § 110.09. Such sales shall be conducted subject to the regulations hereinafter set forth and such further or additional regulations as the City Council may by resolution adopt from time to time in order to meet unforeseen exigencies.
(Ord. 51, passed 12-21-92) Penalty, see § 10.99

§ 110.05 PERMIT CONDITIONS; PAYMENT OF TAXES.

Auction sales may be conducted in this city by regularly licensed auctioneers whenever a permit has been issued therefore by the City Clerk, but no such permit shall be issued unless all taxes on the property sought to be sold have been paid, or security satisfactory to the City Clerk has been given for such payment. Any such permit shall be revocable by the City Council for cause.
(Ord. 51, passed 12-21-92)

§ 110.06 PERMIT APPLICATION; ISSUANCE AND POSTING REQUIREMENTS.

The application for an auction sale shall be filed with the City Clerk, where it may be examined by the public at any time before or during the sale. Not less than ten full days after a proper application has been filed, the Clerk shall issue a permit to the auctioneer named in the application if all requirements of this chapter have been met, which permit shall authorize the auctioneer to conduct an auction sale of the property listed in the application at the date, time and place named therein. Such permit shall be posted by the auctioneer in a conspicuous place on the premises where the auction sale is being conducted, and shall remain posted throughout such sale.
(Ord. 51, passed 12-21-92) Penalty, see § 10.99

§ 110.07 APPLICATION CONTENTS; FEE.

The application to conduct an auction sale in the city shall be made on blanks to be furnished by the City Clerk. A permit fee as set by the City Council by resolution from time to time shall accompany such application.
(Ord. 51, passed 12-21-92)

§ 110.08 RECORDS.

Every auctioneer who conducts an auction sale in this city shall keep a sales book showing every sale, and each purchaser shall sign said sales book opposite the description of the article purchased.
(Ord. 51, passed 12-21-92) Penalty, see § 10.99

§ 110.09 EXEMPT SALES.

The provisions of this chapter shall not apply to:

(A) Sheriffs, constables or other public or court officers or to any persons acting under the license, direction or authority of any court, state or federal, selling property in the course of their official duties or to any person selling property under and by virtue of any statute, state or federal;

(B) Auctions of livestock or animals;

(C) Auctions conducted for the sole benefit of any non-profit educational, religious, library, benevolent, charitable or scientific institution, association or organization, where the goods, wares and merchandise to be auctioned are donated to such institution, association or organization and the proceeds of the auction are to be applied exclusively to its purposes; or

(D) Auctions not for cash or its equivalent.
(Ord. 51, passed 12-21-92)

§ 110.10 VIOLATIONS; REMEDIES.

Any person who violates any provision of this chapter shall be guilty of a criminal misdemeanor punishable as provided in § 10.99. The city shall have the option of pursuing criminal prosecution and legal and/or equitable relief in a court of competent jurisdiction.
(Ord. 51, passed 12-21-92)

CHAPTER 111: COMMUNITY ANTENNA TELEVISION

Section

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GENERAL PROVISIONS

§ 111.01 SHORT TITLE.

This chapter shall be known and may be cited as the CATV Ordinance.
(Ord. 31, passed 7-20-81)

§ 111.02 DEFINITIONS.

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

CABLE TELEVISION SYSTEM; CATV SYSTEM; SYSTEM. A system, within the city, of antennas, cables, wires, lines, towers, waveguides or any other conductors, converters, equipment or facilities by which the signals of one or more television or radio stations are received directly or indirectly over the air and are amplified or otherwise modified and distributed primarily by wire or cable to subscribers.

CATV COMMITTEE; COMMITTEE. The City CATV Committee appointed by the City Council in accordance with the provisions of this chapter.

CITY CLERK; CLERK. The clerical officer of the City Council, chief election officer and the custodian of the city seal.

CITY SUPERINTENDENT. The City Superintendent of Public Works.

FCC or ***FEDERAL COMMUNICATIONS COMMISSION*** or ***FCC.*** The present federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

LICENSEE. A person to whom a license has been issued pursuant to provisions of this chapter.
(Ord. 31, passed 7-20-81)

§ 111.03 LIMITATIONS OF CHARTER TO APPLY.

Any license granted under this chapter is expressly subject to any provisions and limitations thereon set forth in the City Charter.
(Ord. 31, passed 7-20-81)

§ 111.04 CATV COMMITTEE; RESPONSIBILITIES.

(A) The City Council shall appoint a City CATV Committee of three members who will hold office for three years; except, that the initial term of two appointees shall be for two years, and the initial term of one appointee shall be for one year.

(B) The CATV Committee shall be responsible to the City Council for the following:

(1) Receive and request reports as provided for in § 111.47.

(2) Oversee the licensee's compliance with the provisions of this chapter, and advise the City Council of any noncompliance as provided for in § 111.22.

(3) Receive any unresolved complaints from the City Clerk and act thereon as provided for in § 111.51.

(4) The appointment of a Director of Public Access Programming whose term of office shall be two years and who shall be responsible for all local origination activities. The Director shall report to the CATV Committee. The licensee shall actively provide advice and guidance on local origination facilities and programming.

(5) Make periodic inspection of the licensee's equipment and facilities to determine their adequacy and compliance with this chapter.

(6) Perform such other duties as may, from time to time, be required by the City Council.
(Ord. 31, passed 7-20-81)

§ 111.05 SEVERABILITY.

If any section, sentence, clause or phrase of this chapter is held to be unconstitutional, such unconstitutionality shall not affect the validity of the chapter, and any portions in conflict are hereby repealed; provided, however, that in the event that the Federal Communications Commission declares any section invalid, then such section or sections will be renegotiated by the City Council and the licensee.
(Ord. 31, passed 7-20-81)

§ 111.06 UNLAWFUL CONNECTION WITH SYSTEM; TAMPERING PROHIBITED.

(A) It shall be unlawful for any person to make any connection whether physically, electrically, acoustically, inductively or otherwise, with any part of the licensee's cable television system for the purpose of enabling himself or others to receive any television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over the licensee's cable system without payment to the licensee.

(B) It shall be unlawful for any person, without the consent of the licensee, to willfully tamper with, remove or injure any cable, wires or other equipment used for the distribution of television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over the licensee's cable system.

(C) Any person violating any of the provisions of this section shall be guilty of a misdemeanor.
(Ord. 31, passed 7-20-81) Penalty, see § 10.99

LICENSING PROVISIONS

§ 111.20 LICENSE REQUIRED.

No person shall own or operate a community antenna television system in the city except by license issued to such person pursuant to this chapter. The Clerk shall issue a CATV license only upon receipt of an application which complies with all other requirements of this chapter, and upon approval by the City Council of the licensee's legal, character, financial, technical and other qualifications, as well as the adequacy and feasibility of the licensee's construction arrangements, after a full public proceeding affording due process. Such license shall authorize the operation of a community antenna television system within the city, subject to the provisions of this chapter, for a period of 15 years. The annual licensee fee shall be in an amount to be determined by Council resolution from time to time, payable each year on August 1.
(Ord. 31, passed 7-20-81) Penalty, see § 10.99

§ 111.21 RENEWAL.

(A) A licensee hereunder may, at its option, make application for the renewal of a license granted hereunder by filing with the Clerk of the City Council a written application, signed by the applicant or its duly authorized agent, for the renewal of such license for an additional term of 15 years. Such request shall be filed not less than six months prior to the expiration of the existing term. The applicant shall submit with such application a financial statement or other evidence of financial capability, together with a filing fee in an amount to be determined by Council resolution from time to time. If the applicant then has any plan or plans for a significant change or revision of the general plan of the system to continue service to the city, such plan or plans shall be submitted with the application. Such application for renewal shall be submitted to the City Council for approval as provided in § 111.20.

(B) License renewals, unless revoked for cause, shall remain in force and effect for 15 years.

(C) All of the terms and provisions of this chapter shall be controlling during the renewal period, except to the extent that such terms and provisions are modified by the city, or unless this chapter is superseded by a new ordinance.
(Ord. 31, passed 7-20-81)

§ 111.22 REVOCATION FOR NONCOMPLIANCE.

Any violation by the licensee of any material provision of this chapter or the failure to properly perform any of the conditions or terms hereof shall be cause for the revocation of its license and all rights thereunder. The CATV Committee shall report such noncompliance in writing to the City Council which, upon due notice to the licensee and after reasonable opportunity to place itself in compliance and to be heard on the charge of noncompliance, may revoke such license.

(Ord. 31, passed 7-20-81)

§ 111.23 TRANSFERABILITY.

No transfer or assignment of a license granted hereunder shall be effective unless the prospective transferee or assignee files an application for an approval of assignment or transfer with the Clerk. The Clerk shall issue a certificate of approval of assignment or transfer of a license only if the application therefore complies with all of the requirements of this chapter, and upon approval by the City Council of the transferee's or assignee's legal, character, financial, technical and other qualifications, as well as the adequacy and feasibility of the transferee's or assignee's construction arrangements, after a full public hearing affording due process. Permission to transfer the license will not be unreasonably withheld. Prior approval of the City Council shall be required where ownership or control of more than 25% of the right-of-control of the licensee is acquired by a party or group of parties acting in concert, none of whom already owns or controls 25% or more of such rights-of-control, singularly or collectively. This approval will not be unreasonably denied.
(Ord. 31, passed 7-20-81)

RULES AND REGULATIONS

§ 111.40 COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS; RESTRICTIONS ON USE OF STREETS.

(A) Any person duly licensed to operate a CATV system shall at all times be subject to all lawful exercise of the police power of the city and to such reasonable regulations as the city shall hereafter by resolution or ordinance provide.

(B) The licensee shall comply, within one year from the date of adoption, with all applicable rules and regulations of the Federal Communications Commission which are now in effect or which may hereinafter be approved by the FCC.

(C) Any licensee shall have the right, subject to division (A) of this section, so long as his license is in force and effect, to utilize the streets of the city for the erecting of facilities for the transmission of television signals as herein authorized from his antenna location or locations to the premises of subscribers. The licensee may erect all necessary wires, cables and appurtenances in such streets; provided, that any such distribution systems shall comply with all applicable laws, regulations and ordinances and all of the licensee's wires and cables suspended from poles in the streets shall comply with the minimum clearances aboveground required for telephone lines, cables, wires and conduits. The placement of any necessary poles shall be subject to the approval of the City Superintendent. The licensee may, at its option, authorize the installation of such wires, cables, conduits, poles and appurtenances by another for the licensee's use and all such wires, cables, conduits, poles and appurtenances placed or installed by others for the use of the licensee shall be subject to the same regulations as if the licensee installed them.

(D) All transmission and distribution lines and equipment erected by the licensee or on his behalf within the city shall be so located as to cause minimal interference with the rights and reasonable convenience of property owners who adjoin any of such streets, and existing poles for electric and communication purposes shall be utilized wherever possible and practicable.

(E) In case of any disturbance of any facility, including but not limited to a sewer, water line, pavement, lawns, sidewalk, driveway or other surfacing, the licensee shall, at his own cost and expense and in a manner approved by the City Superintendent, replace and restore the facility disturbed, in as good a condition as before the work was commenced.

(F) The licensee shall have the right to locate its cable aboveground, subject to the condition that such cables will be relocated below ground in all areas where the cables, wires and conduits of all other utility companies are located below ground.
(Ord. 31, passed 7-20-81) Penalty, see § 10.99

§ 111.41 AVAILABILITY OF FACILITIES.

(A) The licensee, with the purpose of supplying its facilities and service to all residents of the city who may request such service, shall commence and diligently pursue the construction of its cable television energized trunk cable distribution facilities within one year following the granting of a license to the licensee by the city. If the city shall expand beyond its present territorial limits, the licensee shall extend its facilities and service on the same basis hereinabove provided.

(B) The licensee shall provide within the city a convenient place for the payment of bills by subscribers and toll free telephone access to the licensee's central office.
(Ord. 31, passed 7-20-81)

§ 111.42 INDEMNIFICATION OF CITY.

The licensee shall fully indemnify, defend and hold harmless the city, its officers, agents and employees against any and all claims, suits, actions, liabilities, judgments and demands whatsoever resulting from the negligence of the licensee in the construction, operation or maintenance of its CATV system in the city. The city shall notify the licensee within five days after the presentment of any claim or demand, either by suit or otherwise, made against the city on account of any negligence as aforesaid on the part of the licensee.
(Ord. 31, passed 7-20-81)

§ 111.43 INSURANCE REQUIREMENTS.

Each applicant shall, in its application, demonstrate by certificate of insurance that it carries Worker's Compensation and is protected by comprehensive general liability insurance, including fleet, issued by an insurance carrier authorized to do business in the state, against claims for property damage in the minimum amounts of $100,000 for any one accident and for personal injuries including death in the minimum amounts of $200,000 to any one person, and $500,000 for personal injuries including death resulting from any one accident for construction, operations and maintenance. The policy is to eliminate the X-C-U exclusions.
(Ord. 31, passed 7-20-81)

§ 111.44 AUTHORITY OF LICENSEE TO PROMULGATE RULES AND REGULATIONS.

The licensee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the licensee to exercise its rights and perform its obligations under this chapter and to assure an uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof, or the rules of any state or federal regulatory agency, or the laws of the state.
(Ord. 31, passed 7-20-81)

§ 111.45 RATES.

Rates to be charged for service hereunder shall be fair and reasonable and no higher than necessary to provide a fair return upon investment (original cost less depreciation) together with a reasonable margin of profit upon the operation of the system. When its license shall take effect, the licensee shall have authority to charge and collect, not to exceed a scheduled rate attached to and made a part of the licensee's application for an initial two-year period. The schedule of rates shall include and make reference to initial connection charges, additional installation at the same location, disconnect service charges, charges for relocating service within a home and monthly service charges and shall include the charges for connecting to an existing master antenna television system. The licensee shall levy no monthly service charges for public and private educational institutions, hospitals, police and fire stations or the city hall as long as such services are not resold, and may charge an installation charge for running and maintaining extra lines.
(Ord. 31, passed 7-20-81; Am. Ord. passed 7-19-82)

§ 111.46 PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED.

The licensee shall not, as to rates, charges, service facilities, rules or regulations, or in any other respect, make or grant preference or advantage to any person, nor subject any person to any prejudice or disadvantage; and the licensee shall be prohibited from providing to his customers in the city who pay the licensee's basic rate as established pursuant to this chapter, any lesser services or programming than is then currently being provided; provided, however, that nothing in this chapter shall be deemed to prohibit the establishment of free-of-charge-service to public or private educational institutions, hospitals, eleemosynary institutions and such public buildings as fire stations, police stations or the city hall; provided further, however, that nothing in this chapter shall be deemed to prohibit higher rates or charges for areas wherein there is a population density of less than 40 homes per mile as long as any additional amount over the standard rates and charges is in proportion to the lesser income from subscribers incurred due to the lesser density or to higher installation charges.
(Ord. 31, passed 7-20-81) Penalty, see § 10.99

§ 111.47 RECORDS; FILING.

The CATV Committee shall have access at all reasonable hours to all of the licensee's plans, contracts and engineering, accounting, financial, statistical, customer and service records relating to the property and the operation of the licensee in the city and to all other records required to be kept hereunder. The following records and reports shall be filed with the CATV Committee and in the local office of the licensee: Copies of such rules, regulations, terms and conditions as are adopted by the licensee for the conduct of its business.
(Ord. 31, passed 7-20-81; Am. Ord. passed 7-19-82)

§ 111.48 SERVICES NOT TO BE PERFORMED BY LICENSEE.

The services performed pursuant to licenses issued hereunder shall not include the performance of repairing, servicing or selling television sets or television antennas nor shall the licensee recommend service by others except as directly related to cable installation and/or connection.
(Ord. 31, passed 7-20-81)

§ 111.49 OPERATING STANDARDS.

(A) The licensee shall install, maintain and operate its system in accordance with the highest standards of the art and render efficient service in accordance with such rules and regulations as promulgated by the Federal Communications Commission and other appropriate agencies.

(B) There shall be no interruption of service to subscribers unless caused by acts or events over which the licensee has no control. The licensee shall provide a uniform strong signal, as free from distortion and interference as the state of the art permits. Whenever it is necessary to shut down or interrupt services for the purpose of making repairs, adjustments or installation, the licensee shall do so at such time as will cause the least amount of inconvenience to its subscribers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its subscribers.
(Ord. 31, passed 7-20-81; Am. Ord. passed 7-19-82) Penalty, see § 10.99

§ 111.50 PROVISION OF WEATHER SERVICE CHANNEL.

The licensee shall provide a 24-hour weather service channel.
(Ord. 31, passed 7-20-81; Am. Ord. passed 7-19-82)

§ 111.51 SUBSCRIBER COMPLAINTS.

(A) Subscriber complaints regarding interruption of service, quality of service, equipment malfunctions, and similar matters shall be referred by telephone or letter. The letter shall be addressed to the licensee at its business office maintained for those purposes. Such complaints shall be recorded and made a part of

the licensee's permanent records. The licensee will be afforded a 48-hour period from the date of issuance of such complaint to perform a full investigation and resolve the complaint.

(B) Unresolved subscriber complaints shall be forwarded to the City Clerk, who shall in turn periodically forward them to the CATV Committee.
(Ord. 31, passed 7-20-81; Am. Ord. passed 7-19-82)

§ 111.52 PROTECTION OF PRIVACY.

(A) A subscriber's line shall not be tapped or monitored without prior written permission from the subscriber.

(B) The city or licensee shall not, without prior written authorization from each subscriber so affected, provide any data identifying the subscriber's name or address to any other party.
(Ord. 31, passed 7-20-81) Penalty, see § 10.99

CHAPTER 112: JUNK DEALERS

Section

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§ 112.01 DEFINITIONS.

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

JUNK DEALER. Any person who buys, sells, or receives at a fixed location what is commonly called junk, such as rags, paper, old rope, bags, bagging, iron, brass, copper, tin, zinc, aluminum, scrap or discarded metal, bottles or other articles whether manufactured or in the process of manufacture, or raw materials, whether old or new.

PERSON. The term shall be held and construed to mean and include one or more persons, firms, partnerships, corporations, whether acting by themselves or by a servant, agent or employee. All persons who violate any of the provisions of this chapter whether as owner or as agent, servant or employee or employees shall be equally liable as principals.
(Ord. 1, passed 4-27-51)

§ 112.02 LICENSE REQUIRED.

No person, directly or indirectly, himself or by his clerk, agent, or employee, shall engage in the business of a junk dealer within the corporate limits of the city, without first having obtained a license therefore from the City Council.
(Ord. 1, passed 4-27-51) Penalty, see § 10.99

§ 112.03 LICENSE APPLICATION.

Application for such license shall be made in writing to the City Council and filed with the City Clerk. It shall give all such information as may be deemed necessary and proper for the enforcement of the provisions of this chapter including the name and address of the applicant, the business or trade name under which the applicant is to operate, previous business experience in the business, and if the applicant is a corporation, the names and addresses of the officers. It shall contain an agreement upon the part of the applicant that he will accept the license, if granted him, upon the condition that it may be suspended or revoked at the will of the Council.
(Ord. 1, passed 4-27-51)

§ 112.04 APPROVAL; REQUIREMENTS AND RESTRICTIONS.

If the City Council is satisfied that the applicant is a suitable person to engage in the business of junk dealer, it shall grant such license; provided that no license shall be granted to conduct the business in a business or residential district and the location shall be first approved by the Council. Further, that no license shall be granted until the applicant therefore shall have enclosed such property with a painted board fence at least six feet high and erected in such a manner as to obliterate the premises from view, which fence shall at all times be properly maintained by the licensee. No junk dealer's license shall be granted until the applicant therefore has been photographed and fingerprinted by the Chief of Police.
(Ord. 1, passed 4-27-51)

§ 112.05 FEE.

When such license has been granted, the City Clerk shall issue the same upon payment of a fee, in an amount to be determined by Council resolution from time to time, to the City Clerk.
(Ord. 1, passed 4-27-51)

§ 112.06 LICENSE VALID ONLY AT DESIGNATED LOCATION; LICENSE NONTRANSFERABLE.

Each license issued under this chapter shall designate the particular place in said city where such business may be conducted and it shall be unlawful for any licensee to engage in such business at any place other than that designated in such license. The license shall be subject to all the terms and conditions of this chapter. It shall not be assignable or transferable. No persons, except the licensee, directly or indirectly shall do business or be permitted to do business under said license.
(Ord. 1, passed 4-27-51) Penalty, see § 10.99

§ 112.07 REVOCATION; EXPIRATION OF LICENSE.

Licenses issued under the provisions of this chapter shall be revocable by the City Council at any time for a violation of any law of the state, of any ordinance of the city, or if the Council shall deem such licensee an unfit person to carry on such business, or if it shall be satisfied that said business as conducted is detrimental to the interests of the public. All licenses shall expire on June 30, unless sooner revoked by the Council.
(Ord. 1, passed 4-27-51)

§ 112.08 RECORDS REQUIRED.

Each licensee shall keep a book in which shall be written in ink and in the English language the day, hour, name, age, address and automobile license of each person buying, selling, or leaving any article, including a complete description of all articles received and/or disposed of that can be readily identified by a trade name or by a number. No entry in such book shall be erased, obliterated, altered or defaced.
(Ord. 1, passed 4-27-51) Penalty, see § 10.99

§ 112.09 RECEIPT OF ARTICLES BY WAY OF PAWN; LOAN OF MONEY PROHIBITED.

No licensee shall receive in the course of his business any article by way of pledge or pawn, nor shall he loan or advance any sum of money on the security of any article or thing.
(Ord. 1, passed 4-27-51) Penalty, see § 10.99

§ 112.10 RECEIPT OF ARTICLES FROM CERTAIN PERSONS PROHIBITED.

No licensee shall purchase, receive or take any article mentioned in this chapter from any person under the age of 17 years, from any intoxicated person, from a habitual drunkard, or from any person known by reputation or suspected by him to be a thief or from an associate of thieves, or a receiver of stolen property.
(Ord. 1, passed 4-27-51) Penalty, see § 10.99

§ 112.11 RIGHT-OF-ENTRY OF POLICE AND CITY OFFICIALS; FORFEITURE OF LICENSE FOR FAILURE TO COMPLY.

The Chief of Police, city officials and the members of the Sheriff's Department and State Police shall at all times have free access to all parts of the premises, for which a license has been granted, as provided in this chapter, and refusal to give such access by any person on such premises shall be sufficient cause to work a forfeiture of such license.
(Ord. 1, passed 4-27-51)

CHAPTER 113: PEDDLERS AND SOLICITORS

Section

General Provisions

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GENERAL PROVISIONS

§ 113.01 SOLICITATION FOR DONATIONS.

(A) It shall be unlawful for any person to engage in the solicitation for donations by placement of canisters within the city without first registering with the City Clerk and City Police Department.

(B) Applicants for permits to place donation canisters within the city must file with the City Clerk a sworn application in writing on a form to be furnished by the City Clerk, which shall give the following information:

(1) Name and description of the applicant;

(2) Address (legal and local);

(3) A brief description of the nature and purpose of the donations being solicited;

(4) The length of time for which the right to place donation canisters is desired;

(5) The location where each donation canister shall be placed;

(6) The name and identity of the individual authorized to pick up the donation canisters when the solicitation period expires;

(7) Total amounts collected when the period for the solicitation has expired.

(Ord. 38, passed 1-19-87)

Cross-reference:

Solicitation of alms in parks, see § 93.19

PEDDLERS

§ 113.10 DEFINITIONS.

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

PEDDLER. This term shall include any person, whether a resident of the city or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this subchapter shall be deemed a peddler subject to the provisions of this subchapter. The word ***PEDDLER*** shall include the
words "hawker" and "huckster." Provided however this shall not prohibit the soliciting of orders for magazines or periodicals, as well as subscriptions thereto by any school, church, lodge or any other organization located in the city.

PERSON. This term shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, copartnership or society, or any other organization.
(Ord. 19, passed 6-25-70)

§ 113.11 PERMIT AND LICENSE REQUIRED.

It shall be unlawful for any person to engage in the business of peddler as defined in § 113.10 within the corporate limits of the city without first obtaining a permit and license therefore as provided herein.
(Ord. 19, passed 6-25-70) Penalty, see § 10.99

§ 113.12 APPLICATION; FEE.

(A) Applicants for a permit and license under this subchapter must file with the City Clerk a sworn application in writing (in duplicate) on a form to be furnished by the City Clerk, which shall give the following information:

(1) Name and description of the applicant;

(2) Address (legal and local);

(3) A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant;

(4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;

(5) The length of time for which the right to do business is desired;

(6) If a vehicle is to be used, a description of the same, together with license number, proof of insurance and proper registration;

(7) The fingerprints of the applicant and the names of at least two reliable property owners of the county, who will certify as to the applicant's good character and business responsibility, or in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore;

(9) A statement by a reputable physician of the county, dated not more than ten days prior to submission of the application, certifying the applicant to be free of infectious, contagious, or communicable disease.

(B) At the time of filing the application, a fee in an amount to be determined by Council resolution from time to time, shall be paid to the City Clerk to cover the cost of investigation.
(Ord. 19, passed 6-25-70)

§ 113.13 INVESTIGATION OF APPLICANT; ISSUANCE OF PERMIT AND LICENSE.

(A) Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

(B) If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the City Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued. The applicant may appeal the decision pursuant to § 113.22.

(C) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the City Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature of the issuing officer and shall show the name and address of said licensee, and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling. The Clerk shall keep a permanent record of all licenses issued.
(Ord. 19, passed 6-25-70)

§ 113.14 PERMIT AND LICENSE FEES.

The fees charged an applicant for a permit and license under this subchapter shall be those fees adopted by the City Council from time to time by resolution. No application shall be accepted and no license shall be issued under this subchapter until all required fees have been paid in full.
(Ord. 19, passed 6-25-70; Am. Ord. passed 10-19-92)

§ 113.15 TRANSFER; EXHIBITION OF LICENSE.

(A) *Transfer*. No license issued under the provisions of this subchapter shall be used or worn at any time by any person other than the one to whom it was issued.

(B) *Exhibition of license*. Peddlers are required to exhibit their licenses at the request of any citizen.
(Ord. 19, passed 6-25-70) Penalty, see § 10.99

§ 113.16 REVOCATION OF LICENSE AND PERMIT; HEARING.

(A) Permits and licenses issued under the provisions of this subchapter may be revoked by the Clerk of the city after notice and hearing, for any of the following causes:

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

(2) Fraud, misrepresentation, or false statement made in the course of carrying on his business as peddler;

(3) Any violation of this subchapter;

(4) Conviction of any crime or misdemeanor involving moral turpitude;

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

(B) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.
(Ord. 19, passed 6-25-70)

§ 113.17 EXPIRATION OF LICENSE.

All annual licenses issued under the provisions of this subchapter shall expire on December 31 in the year when issued. Other than annual licenses shall expire on the date specified in the license.
(Ord. 19, passed 6-25-70)

§ 113.18 LOUD NOISES AND SPEAKING DEVICES.

No peddler, nor any person in his behalf, shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of said city or upon any private premises in the said city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods or wares or merchandise which such licensee proposes to sell.
(Ord. 19, passed 6-25-70) Penalty, see § 10.99

§ 113.19 PEDDLING CONCESSIONARY FOOD PRODUCTS IN PARKS.

(A) The sale of concessionary food products at the city public parks and recreational areas shall be awarded by publicly-advertised bid. It shall be awarded according to the City Council's determination as to what is in the best interest of the city.

(B) The permit shall be an exclusive permit.

(C) The permit holder shall have the exclusive right to sell concessionary food products within a 1,000-foot radius of the park for which the permit is held.
(Ord. 19, passed 6-25-70; Am. Ord. passed 8-16-82)
Cross-reference:
Merchandising, advertising and signs in parks, see § 93.20

§ 113.20 DUTY OF POLICE TO ENFORCE.

It shall be the duty of any police officer of the city to require any person seen peddling, and who is not known by such officer to be duly licensed, to produce his peddler's license and to enforce the provisions of this subchapter against any person found to be violating the same.
(Ord. 19, passed 6-25-70)

§ 113.21 CITY CLERK TO KEEP RECORDS AND REPORTS OF VIOLATION.

The Chief of Police shall report to the City Clerk all convictions for violation of this subchapter and the City Clerk shall maintain a record for each license issued and record the reports of violation therein.
(Ord. 19, passed 6-25-70)

§ 113.22 APPEAL PROCEDURE.

Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of any application for permit or license as provided in § 113.13 of this subchapter, or in the decision with reference to the revocation of a license as provided in § 113.16 of this subchapter, shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the Council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in § 113.16 of this subchapter for notice of hearing on revocation. The decision and order of the Council on such appeal shall be final and conclusive.
(Ord. 19, passed 6-25-70)

§ 113.23 USE OF STREETS

No peddler shall have any exclusive rights to any location in the public streets, nor shall any be permitted a stationary location, nor shall any be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this subchapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
(Ord. 75, passed 3-4-02)

CHAPTER 114: TELECOMMUNICATIONS

Section

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§ 114.01 PURPOSE

The purposes of this chapter are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Public Act 48 of 2002) ("Act" or "the Act") and other applicable law, and to ensure that the city qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.
(Ord. 77, passed 11-18-02)

§ 114.02 CONFLICT

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.
(Ord. 77, passed 11-18-02)

§ 114.03 DEFINITIONS.

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

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

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

CITY. The City of White Cloud.

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

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

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

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

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

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

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

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

(1) A cable television operator that provides a telecommunications service.

(2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.

(3) A person providing broadband internet transport access service.
(Ord. 77, passed 11-18-02)

§ 114.04 PERMIT REQUIRED

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

(B) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with § 6(1) of the Act. A telecommunications provider shall file one

copy of the application with the City Clerk, one copy with the City Manager, and one copy with the City Attorney. Upon receipt, the City Clerk shall make copies of the application and distribute appropriately. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with § 6(5) of the Act.

(C) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary or confidential information, which is exempt from the Freedom of Information Act, Public Acts 442 of 1976, being M.C.L.A. §§ 15.231 to 15.246, pursuant to §6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.

(D) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of $500.

(E) *Additional information.* The City Manager may request an applicant to submit such additional information which the City Manager deems reasonably necessary or relevant. The application shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Manager. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in § 6(2) of the Act.

(F) *Previously issued permits.* Pursuant to § 5(1) of the Act, authorizations or permits previously issued by the city under § 251 of the Michigan Telecommunications Act, Public Acts 179 of 1991, being M.C.L.A. § 484.2251, and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of § 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.

(G) *Existing providers.* Pursuant to § 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the city as of such date, that has not previously obtained authorization or a permit under § 251 of the Michigan Telecommunications Act, Public Acts 179 of 1991, being M.C.L.A. § 484.2251, shall submit to the city an application for a permit in accordance with the requirements of this chapter. Pursuant to § 5(3) of the Act, a telecommunications provider submitting an application under this division is not required to pay the $500 application fee required under division © above. A provider under this division shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in § 5(4) of the Act.
(Ord. 77, passed 11-18-02)

§ 114.05 ISSUANCE OF PERMIT.

(A) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the City Manager. Pursuant to § 15(3) of the Act, the City Manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under § 114.04(B) for access to a public right-of-way within the city. Pursuant to § 6(6) of the Act, the City Manger shall notify the MPSC when the City Manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The City Manager shall not unreasonably deny an application for a permit.

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

(C) *Conditions.* Pursuant to § 15(4) of the Act, the City Manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage

of the public right-of-way.

(D) *Bond requirement.* Pursuant to § 15(3) of the Act, and without limitation on division © above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.
(Ord. 77, passed 11-18-02)

§ 114.06 CONSTRUCTION/ENGINEERING PERMIT

A telecommunications provider shall not commence construction upon, over, across or under the public rights-of-way in the city without first obtaining a construction or engineering permit as required under "Table of Special Ordinances Table II: Franchise Ordinance Standards" of the City Code, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.
(Ord. 77, passed 11-18-02)

§ 114.07 CONDUIT OR UTILITY POLES.

Pursuant to § 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.
(Ord. 77, passed 11-18-02)

§ 114.08 ROUTE MAPS

Pursuant to § 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the city. The route maps should be in paper or electronic format unless and until the MPSC determines otherwise, in accordance with § 6(8) of the Act.
(Ord. 77, passed 11-18-02)

§ 114.09 REPAIR OF DAMAGE.

Pursuant to § 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.
(Ord. 77, passed 11-18-02)

§ 114.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the city set forth in § 114.04(D), a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to § 8 of the Act.
(Ord. 77, passed 11-18-02)

§ 114.11 MODIFICATION OF EXISTING FEES.

In compliance with the requirements of § 13(1) of the Act, the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of § 13(4) of the Act, the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries, so that those providers pay only those fees required under § 8 of the Act. The city

shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of § 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the city's policy and intent, and upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.
(Ord. 77, passed 11-18-02)

§ 114.12 SAVINGS CLAUSE.

Pursuant to § 13(5) of the Act, if § 8 of the Act is found to be invalid or unconstitutional, the modification of fees under § 114.11 shall be void from the date the modification was made.
(Ord. 77, passed 11-18-02)

§ 114.13 USE OF FUNDS

Pursuant to § 10(4) of the Act, all amounts received by the city from the Authority shall be used by the city solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the city from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the city under Public Acts 51 of 1951.
(Ord. 77, passed 11-18-02)

§ 114.14 ANNUAL REPORT.

Pursuant to § 10(5) of the Act, the City Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.
(Ord. 77, passed 11-18-02)

§ 114.15 CABLE TELEVISION OPERATORS.

Pursuant to § 13(6) of the Act, the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.
(Ord. 77, passed 11-18-02)

§ 114.16 EXISTING RIGHTS.

Pursuant to§ 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.
(Ord. 77, passed 11-18-02)

§ 114.17 COMPLIANCE.

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

(A) Exempting certain route maps from the Freedom of Information Act, Public Acts 442 of 1976, being M.C.L.A. §§ 15.231 to 215.246, as provided in § 114.04(C);
(B) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with § 114.04(F);

(C) Allowing existing providers additional time in which to submit an application for a permit, and

excusing such providers from the $500 application fee, in accordance with § 114.04(G);

(D) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the city, in accordance with § 114.05(A);

(E) Notifying the MPSC when the city has granted or denied a permit, in accordance with § 114.05(A);

(F) Not unreasonably denying an application for a permit, in accordance with § 141.05(A);

(G) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 114.05(B);

(H) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with § 114.05(C)

(I) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with § 114.05(D);

(J) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 114.06;

(K) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this regulation, in accordance with § 114.11;

(L) Submitting an annual report to the Authority, in accordance with § 114.14; and

(M) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 114.15.

(Ord. 77, passed 11-18-02)

§ 114.18 RESERVATION OF POLICE POWERS.

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

(Ord. 77, passed 11-18-02)

§ 114.19 AUTHORIZED CITY OFFICIALS.

The City Manager or his or her designee is hereby designated as the authorized city official to issue notices for violations under this chapter as provided by the City Code.

(Ord. 77, passed 11-18-02)

§ 114-99 PENALTY.

A violation of this chapter shall be a violation of the City Code. Nothing in this section shall be construed to limit the remedies available to the city in the event of a violation by a person of this chapter or a permit.

(Ord. 77, passed 11-18-02)

CHAPTER 115: MEDICAL MARIHUANA FACILITIES.

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§ 115.01 GENERAL.

The City finds that it is in the public interest to allow the licensing and operation of Facilities within its boundaries as permitted by law pursuant to PA 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq.*, as amended.

§ 115.02 PURPOSE.

The purpose of this chapter is to establish standards for the licensing of Facilities. It is the City's intent, subject to conditions, to allow the licensing and operation of Facilities within its boundaries in order to:

1. Promote the safe and regulated manufacturing, production, and sale of medical Marihuana;
2. Provide safe access to medical marihuana for licensed medical marihuana patients;
3. Discourage the sale of unsafe or unlicensed marihuana products;
4. Preserve and protect the health, safety, and welfare of the residents of the City and the general public by minimizing the unsafe or unregulated production and sale of marihuana; and
5. Establish standards and procedures by which the licensing, permitting, operating, and maintaining of Facilities within the City shall be governed.

§ 115.03 DEFINITIONS.

1. Terms not defined herein shall be defined pursuant to PA 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq.*, as amended.
2. Terms not defined herein or in the Act shall be defined pursuant to the Medical Marihuana Facility Rules, as amended and promulgated by the State of Michigan Department of Licensing and Regulatory Affairs Marihuana Regulatory Agency or its successor agency.

3. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires otherwise:

    a. "Act" means PA 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq*., as amended.
    b. "Applicant" means a person or entity who applies for a License under this chapter. If an entity applies for a License the term includes an officer, director, or other agent of the entity when appropriate.
    c. "City" means the City of White Cloud.
    d. "City License" or "License" means a license granted under this chapter.
    e. "Clerk" means the City Clerk.
    f. "Council" means the City Council.
    g. "Facility" means medical marihuana facility as defined in the Act.
    h. "Marihuana Licensing Board" means the board created pursuant to Chapter 117.
    i. "Premises" means the Facility and its property to include attached buildings, outbuildings, parking lots etc.
    j. "State" means the State of Michigan and its agencies.
    k. "State of licensed medical marihuana facility" means any Facility fully licensed by the State of Michigan under the Act.
    l. "State operating license" means a license granted by the State of Michigan pursuant to the Act.

§ 115.04 CONFLICT.

1. Nothing in this chapter shall be construed in such a manner so as to conflict with existing City ordinances except as otherwise stated herein.
2. Nothing in the chapter shall be construed in such a manner so as to conflict with the Act or any other State law.

§ 115.05 APPLICABILITY AND ENABLING PROVISION.

1. Operation of a Facility requires a valid State operating license, City License, compliance with all City ordinances, and compliance all terms of City and State of Michigan Licenses.
2. City Licenses for the following types of Facilities may be granted for operation within the City at any one time:
    a. Growers of any class: unlimited such Licenses;
    b. Processors: unlimited such Licenses;

c. Provisioning Centers: unlimited such Licenses;

d. Secure Transporters: unlimited such Licenses; and

e. Safety Compliance Facilities: unlimited such Licenses.

3. This chapter does not apply to or regulate any protected patient or caregiver conduct pursuant to PA 1 of 2008, the Michigan Medical Marihuana Act, MCLA 333.26421, *et seq*., as amended.
4. A City License is a revocable privilege granted by the City and is not a property right. The application for or granting of a License under this chapter does not create or vest any right, title, franchise, or other property interest.
5. A licensee or any other person shall not lease, pledge, borrow, or loan money against a License.

§ 115.06 LICENSING REQUIREMENTS.

1. No Applicant that has done business or purported to do business under this chapter or the Act without first obtaining the necessary City and State licenses, approvals, and permits shall be eligible for licensing under this chapter.
2. All Facilities shall be subject to inspection, with or without notice, at any time, by the City Fire Chief, the City Police Chief, or their designees.
3. Facilities shall comply with all applicable rules, standards, law, ordinances, regulations, etc. promulgated by the City, State, or any entity thereof.
4. Each License is issued exclusively to the licensee. Any attempt to transfer, sell, purchase, or otherwise convey any interest in a License is grounds for revocation of the License. Any License that has been transferred, sold, purchased, or otherwise had any interest in it conveyed is void.
5. An Applicant that receives a License shall display such License at the Facility in a manner clearly visible to the public.
6. The issuance of a License under this chapter shall be in addition to, and not in lieu of, any other licensing and permitting required by the State, City, or any entity thereof.

§ 115.07 APPLICATION PROCEDURE.

1. All applications for a License under this Chapter shall be filed with the Clerk utilizing and complying with the City's application form and process.

2. The application shall be signed by the Applicant: by the individual if an individual, by all partners if a partnership, by a managing member if a limited liability company, or by the president if a corporation.

3. No application for a License or the granting of a License shall be made until State licensing "pre-qualification" has first been obtained.

4. The Applicant shall provide any information required by the Act and any other information reasonably deemed by the City to be required for the consideration of a License.

5. Upon verification by the Clerk that the application complies with the requirements of the Act, this chapter, and the City application, the Clerk shall submit the application for consideration to the City Marihuana Licensing Board.

6. The issuing of a License under this chapter shall be at the discretion of the City Marihuana Licensing Board.

7. No City License shall be issued if the number of active Licenses allowed under this chapter have been previously met.

8. All Licenses (including those previously issued) shall expire 365 days from the date of issue.

9. All Licenses are subject to annual renewal by the Clerk.

10. License renewal applications must be submitted to the Clerk no later than 60 days before the License expires. Late applications will be subject to a late fee pursuant to the City of White Cloud's Fee schedule adopted by City Council as amended from time to time.

11. The City may assess an initial non-refundable License application fee not to exceed $400.

12. Upon the granting of a License, the City may assess a nonrefundable fee not to exceed $4,600 to cover the costs of oversight, administration, and enforcement associated with the operation of a Facility for the first year of licensure.

13. The City may assess a non-refundable License renewal fee not to exceed $400.

14. Upon the granting of a License renewal, the City may assess a non-refundable fee not to exceed $4,600 cover the cost of renewal, oversight, administration, and enforcement associated with the operation of a marihuana facility for the next year of licensure.

§ 115.08 CLERK DUTIES.

1. The Clerk shall establish written policies, criteria, processes, and forms for the application and reapplication for a License under this chapter.

    a. Such written policies, criteria, processes, and forms for the application and reapplication of a License shall be established no later than one year from the adoption of this chapter.

    b. No applications shall be made, and no Licenses granted under this chapter until such written policies, criteria, processes, and forms for the application and reapplication of a License have been established.

2. Consistent with this Chapter and Chapter 117, the Clerk shall have broad authority to implement policies and procedures for the application and reapplication of a License under this Chapter.

3. The Clerk shall renew a License, if after a due diligence investigation, the Clerk concludes that the Applicant-licensee complies with the requirements of the Act, this Chapter, and City ordinances and policies; and that a License renewal would not constitute a menace to the health, safety, or general welfare of the public. Prior violations of the Act, this Chapter, and City ordinances and policies are ground to deny the renewal of a License.

4. No License shall be renewed unless the Applicant-licensee has a valid State operating license for the Facility seeking License renewal.

5. The Clerk shall transmit a copy of this chapter and any future amendments to the State of Michigan Department of Licensing and Regulatory Affairs.

§ 115.09 LICENSEE OBLIGATIONS.

No licensee shall do or permit any person to do the following in or on the Premises:

1. Smoke, vape, ingest, or otherwise consume marihuana or marihuana products.
2. Conduct any activity involving marihuana to include processing, loading and unloading, and manufacturing outside the Facility in a manner visible to the general public.
3. Reside in any capacity or for any length of time.

§ 115.10 REVOCATION.

1. A License granted under this chapter may be revoked at any time by the Marihuana Licensing Board for any of the following reasons:
    a. Fraud or misrepresentation contained in the State license, City License, or other City applications;
    b. Violation of the Act, this Chapter, any City Ordinances or policy, State law, or term of licensure;
    c. Violation of applicable laws, rules, standards, laws, ordinances, regulations, etc. promulgated by the City, State, or any entity thereof;
    d. Loss of or failure to maintain a valid State operating license;
    e. Failure to secure zoning approvals as required by the City Zoning Ordinance within 120 days of being issued a License under this Chapter.
    f. Failure to comply with the City Zoning Ordinance;
    g. The expiration or violation of any zoning approval.
    h. Conducting business in an unlawful manner or
    i. Conducting business in such a way as to constitute a menace to the health, safety, or general welfare of the public.
2. Prior to revocation, the Marihuana Licensing Board shall hold a hearing at which the licensee may be heard, and all relevant evidence may be admissible.

§ 115.11 APPEALS PROCESS.

1. Any Applicant who is denied a License, licensee whose License is not renewed by the Clerk, or licensee whose License is revoked by the City Marihuana Licensing Board may appeal to the City Council. The appeal must be submitted within 30 days of the denial, denial of renewal, or revocation; be in writing; and clearly state the legal and factual basis for the appeal.
2. The Council shall appoint a hearing officer who will conduct a hearing on the matter. All relevant evidence may be admissible. The hearing officer shall submit his recommendation in writing to the Council.
3. The Council shall review the recommendation of the hearing officer prior to rendering its decision. The Council has the final review authority over any appeal brought before it.
4. No Facility whose License has been denied or revoked is permitted to operate while an appeal is pending.

§ 115.12 VIOLATIONS AND PENALTIES.

1. Any Applicant or licensee who violates this Chapter shall be responsible for

a municipal civil infraction and is subject to a civil fine not to exceed $500 plus any other costs permitted by law for each violation.

2. Each day that a violation continues shall constitutes a different violation.
3. Nothing in this Section precludes the City from pursuing any other remedies available at law or equity.

CHAPTER 116: Recreational Marihuana Establishments

116.01 General
116.02 Purpose
116.03 Definitions
116.04 Conflict
116.05 Applicability and Enabling Provision
116.06 Licensing Requirements
116.07 Application Procedure
116.08 Clerk Duties
116.09 Licensee Obligations
116.10 Revocation
116.11 Appeals Process
116.12 Violation and Penalties

§ 116.01 GENERAL.

The City finds that it is in the public interest to allow the licensing and operation of Establishments within its boundaries as permitted by law pursuant to IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq.*

§ 116.02 PURPOSE.

The purpose of this chapter is to establish standards for the licensing of Establishments. It is the City's intent, subject to conditions, to allow the licensing and operation of Establishments within its boundaries in order to:

1. Promote the safe and regulated manufacturing, production, and sale of recreational marihuana;

2. Provide safe access to recreational marihuana for eligible consumers;

3. Discourage the sale of unsafe or unlicensed marihuana products;

4. Preserve and protect the health, safety, and welfare of the residents of the City and the general public by minimizing the unsafe or unregulated production and sale of marihuana; and

5. Establish standards and procedures by which the licensing, permitting,

operating, and maintaining of Establishments within the City shall be governed.

§ 116.03 DEFINITIONS.

1. Terms not defined herein shall be defined pursuant to IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq.*, as amended.

2. Terms not defined herein or in the Act shall be defined pursuant to the Adult-Use Marihuana Establishment Rule, as amended and promulgated by the State of Michigan Department of Licensing and Regulatory Affairs Marihuana Regulatory Agency or its successor agency

3. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires otherwise.

a. "Act" means IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq*., as amended.

b. Applicant" means a person or entity who applies for a License under this chapter. If an entity applies for a License the term includes an officer, director, or other agent of the entity when appropriate.

c. "City" means the City of White Cloud.

d. "City License" or "License" means a license granted under this chapter.

e. "Clerk" means the City Clerk.

f. "Council" means the City Council.

g. "Establishment" means recreational marihuana establishment as defined in the Act.

h. "Marihuana Licensing Board" means the board created pursuant to Chapter 117.

i. "Premises" means the Establishment and its property to include attached buildings, outbuildings, parking lots etc.

j. "State" means the State of Michigan and its agencies.

k. "State licensed recreational marihuana establishment" means any establishment licensed by the State under the Act.

l. "State of operating license" means a license granted by the State pursuant to the Act.

§ 116.04 CONFLICT

1. Nothing in this chapter shall be construed in such a manner so as to conflict with existing City ordinances except as otherwise stated herein.

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

§ 116.05 APPLICABILITY AND ENABLING PROVISION

1. Operation of an Establishment requires a valid State operating license, City License, compliance with all City ordinances, and compliance all terms of City and State license.

2. City Licenses for the following types of Establishments may be granted for operation within the City at any one time:

a. Growers of any class: unlimited such Licenses;

b. Processors: unlimited such Licenses;

c. Retailers: up to unlimited such Licenses;

d. Secure Transporters: unlimited such Licenses;

e. Safety Compliance Facilities: unlimited such Licenses; and

f. Microbusinesses: unlimited such Licenses.

3. A City License is a revocable privilege granted by the City and is not a property right. The application for or granting of a License under this chapter does not create or vest any right, title, franchise, or other property interest.

4. A licensee or any other person shall not lease, pledge, borrow, or loan money against a License.

§ 116.06 LICENSING REQUIREMENTS.

1. No Applicant that has done business or purported to do business under this chapter or the Act without first obtaining the necessary licenses, approvals, and permits shall be eligible for licensing under this chapter.

2. All Establishments shall be subject to inspection, with or without notice,

at any time, by the City Fire Chief, the City Police Chief, or their designees.

3. All Establishments shall comply with all applicable rules, standards, regulations, etc. promulgated by the City, State, or any entity thereof.

4. Each License issued under this chapter is issued exclusively to the licensee. Any attempt to transfer, sell, purchase, or otherwise convey any interest in a License is grounds for revocation of the License. Any License that has been transferred, sold, purchased, or otherwise had any interest in it conveyed is void.

5. An Applicant that receives a License shall display such License at the Establishment in a manner clearly visible to the public.

6. The issuance of a License under this chapter shall be in addition to, and not in lieu of, any other licensing and permitting required by the State, City, or entity thereof.

§ 116.07 APPLICATION PROCEDURE.

1. All applications for a License under this Chapter shall be filed with the Clerk utilizing and complying with the City's application form and process.

2. The application shall be signed by the Applicant: by the individual if an individual, by all partners if a partnership, by a managing member if a limited liability company, or by the president if a corporation.

3. No application for a License or the granting of a License shall be made until State licensing "pre-qualification" has first been obtained.

4. The Applicant shall provide any information required by the Act and any other information reasonably deemed by the City to be required for the consideration of a License.

5. Upon verification by the Clerk that the application complies with the requirements of the Act, this chapter, and the City application, the Clerk shall submit the application for consideration to the City Marihuana Licensing Board.

6. The issuing of an initial License under this chapter shall be at the discretion of the City Marihuana Licensing Board.

7. No License shall be issued if the numbers of active Licenses allowed under this chapter have been previously met.

8. All Licenses (including those previously issued) shall expire 365 days from the date of issue.

9. All Licenses are subject to annual renewal by the Clerk.

10. License renewal applications must be submitted to the Clerk no later than 60 days before the License expires. Late applications will be subject to a late fee pursuant to the City of White Cloud's Fee schedule adopted by City Council as amended from time to time.

11. The City may assess an initial non-refundable License application fee not to exceed $400.

12. Upon the granting of a License, the City may assess a non-refundable fee not to exceed $4,600 to cover the costs of oversight, administration, and enforcement associated with the operation of an Establishment for the first year of licensure.

13. The City may assess a non-refundable License renewal fee not to exceed $400.

14. Upon the granting of a License renewal, the City may assess a non-refundable fee not to exceed $4,600 cover the cost of renewal, oversight, administration, and enforcement associated with the operation of an Establishment for the next year of licensure.

§ 116.08 CLERK DUTIES.

1. The Clerk shall establish written policies, criteria, processes, and forms for the application and reapplication of a License under this chapter.

   a. Such written policies, criteria, processes, and forms for the application and reapplication of a License shall be established no later than one year from the adoption of this chapter.

   b. No applications shall be made, and no Licenses granted under this chapter until such written policies, criteria, processes, and forms for the application and reapplication of a License have been established.

2. Consistent with this chapter and Chapter 117, the Clerk shall have broad authority to implement policies and procedures for the application and reapplication of a License under this Chapter.

3. The Clerk shall renew a License, if after a due diligence investigation, the Clerk concludes that the Applicant-licensee complies with the requirements of the Act, this Chapter, and City ordinances and policies; and that a License renewal would not constitute a menace to the health, safety, or general welfare of the public. Prior violations of the Act, this Chapter, and City ordinances and policies are grounds to deny the renewal of a License.

4. No License shall be renewed unless the Applicant-licensee has a valid State operating license for the Establishment seeking License renewal.

5. The Clerk shall transmit a copy of this chapter and any future amendments to the State of Michigan Department of Licensing and Regulatory Affairs.

§ 116.09 LICENSEE OBLIGATIONS.

No licensee shall do or permit any person to do the following in or on the Premises:

1. Smoke, vape, ingest, or otherwise consume marihuana or marihuana products.

2. Conduct any activity involving marihuana to include processing, loading and unloading, and manufacturing outside the Establishment in a manner visible to the general public.

3. Reside in any capacity or for any length of time.

§ 116.10 REVOCATION.

1. A License granted under this chapter may be revoked at any time by the Marihuana Licensing Board for any of the following reasons:

a. Fraud or misrepresentation contained in the State license, City License, or other City applications;

b. Violation of the Act or this Chapter; any City Ordinances or policy, State law, or term of licensure

c. Violation of applicable laws, rules, standards, regulations, etc. promulgated by the City, State, or entity thereof;

d. Loss of or failure to maintain a valid State operating license;

e. Failure to secure zoning approvals as required by the City Zoning Ordinance within 120 days of being issued a License under this Chapter.

f. Failure to Comply with the City Zoning Ordinance.

g. The expiration or violation of any zoning approval.

h. Conducting business in an unlawful manner; or

i. Conducting business in such a way as to constitute a menace to the health, safety, or general welfare of the public.

2. Prior to revocation, the Marihuana Licensing Board shall hold a hearing at which the licensee may be heard, and all relevant evidence may be admissible.

§ 116.11 APPEALS PROCESS.

1. Any Applicant who is denied a License, licensee whose License is not renewed by the Clerk, or licensee whose License is revoked by the City Marihuana Licensing Board may appeal to the City Council. The appeal must be submitted within 30 days of the denial, denial of renewal, or revocation; be in writing; and clearly state the legal and factual basis for the appeal.

2. The Council shall appoint a hearing officer who will conduct a hearing on the matter. All relevant evidence may be admitted. The hearing officer shall submit his recommendation in writing to the Council.

3. The Council shall review the recommendation of the hearing officer prior to rendering its decision. The Council has the final review authority over any appeal brought before it.

4. No Establishment whose License has been denied or revoked is permitted to operate while an appeal is pending.

§ 116.12 VIOLATIONS AND PENALTIES.

1. Any Applicant or licensee who violates this Chapter shall be responsible for a municipal civil infraction and is subject to a civil fine not to exceed $500 plus any other costs permitted by law for each violation.

2. Each day that a violation continues shall constitute a different violation.

3. Nothing in this Section precludes the City from pursuing any other remedies available at law or equity.

CHAPTER 117: Marihuana Licensing Board

117.01 General
117.02 Purpose

117.03 Definitions
117.04 Conflict
117.05 Board Composition and Eligibility
117.06 Removal from Office and Vacancy
117.07 Powers, Duties, and Procedures

§ 117.01 GENERAL.

1. The City finds that it is in the public interest to create a licensing board by which Establishments and Facilities may be licensed to operate within its boundaries as permitted by law pursuant to IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq.*, as amended and PA 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq.*, as amended.

2. The Marihuana Licensing Board is hereby created.

§ 117.02 PURPOSE.

The purpose of this chapter is to establish a Marihuana Licensing Board which shall have the authority to issue and revoke Licenses for Establishments and Facilities.

§ 117.03 DEFINITIONS.

1. Terms not defined herein shall be defined pursuant to IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq.*, as amended or PA 281 of 2016, the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq.*, as amended.

2. Terms not defined herein or in the Act shall be defined pursuant to the Medical Marihuana Facility Rules, as amended or the Adult-Use Marihuana Establishment Rule, as amended as promulgated by the State of Michigan Department of Licensing and Regulatory Affairs Marihuana Regulatory Agency or its successor agency.

3. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires otherwise.

a. "Applicant" means a person or entity who applies for a License. If an entity applies for a License, the term includes an officer, director, or other agent of the entity when appropriate.

b. "Application" means an application for a City License.

c. "Board" means the Marihuana Licensing Board established in this chapter.

d. "Board Member" or "Member" means a member of the Marihuana Licensing Board

e. "City" means the City of White Cloud.

f. "City License" or "License" means a license granted by the City pursuant to Title XI chapter 115 entitled "Medical Marihuana Facilities" and chapter 116 entitled "Recreational Marihuana Establishments" of the Code of Ordinances for the City of White Cloud.

g. "Clerk" means the City Clerk.

h. "Establishment" means recreational Marihuana establishment as defined in IL 1 of 2018, the Michigan Regulation and Taxation of Marihuana Act, MCLA 333.27951, *et seq.*, as amended

i. "Facility" means a medical marihuana facility as defined in the Medical Marihuana Facilities Licensing Act, MCLA 333.27101, *et seq.*, as amended

§ 117.04 CONFLICT.

1. Nothing in this chapter shall be construed in such a manner so as to conflict with existing City ordinances except as otherwise stated herein.

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

§ 117.05 BOARD COMPOSITION AND ELIGIBILITY.

1. The Board shall be comprised of seven members, each of whom shall be appointed by the Mayor and confirmed by the City Council.

2. The term for each Board Member shall be two years.

3. No Board Member may be sitting member of the City Council.

4. The Board shall elect from among its members a Chair, Vice Chair, and any other officer deemed necessary. The term of office for such officers shall be one year.

5. The City Clerk shall serve as the clerk for the Board.

6. There shall be no limit to the number of terms a Board Member may serve.

§ 117.06 REMOVAL FROM OFFICE AND VACANCY.

1. A Board member may be removed by vote of the City Council.

2. The office of a Board Member shall be considered vacant upon the Member's death, removal from office, or submission of a letter of resignation to the Mayor.

3. Any vacancy shall be filled in the same manner as the original appointment except that the term shall be limited to the duration of the original term.

§ 117.07 POWERS, DUTIES, AND PROCEDURES.

1. The Board shall meet at a minimum once a quarter.

2. The Board shall establish its own practices, rules, and procedures. Formalized rules and procedures shall be in writing and filed with the City Clerk.

3. Approval or Denial of Licenses:

a. Subject to law, the Board shall have the authority to approve or deny Licenses for Establishments and Facilities.

b. The approval or denial of a License shall be at the Board's discretion upon consideration of the following:

i. The Applicant's ability to ensure safe and regulated manufacturing, production, or sale of marihuana;

ii. The Applicant's ability to ensure safe access to marihuana for eligible consumers;

iii. The Applicant's ability to discourage the sale of unsafe or unlicensed marihuana products; and

iv. The health, safety, and welfare of the residents of the City.

c. The Board shall hold a public hearing prior to rendering a license decision.

d. The Applicant shall be given an opportunity to respond to questions from the Board regarding the Application.

4. Revocation of Licenses.

a. Subject to law, the Board shall have the authority to revoke Licenses for Establishments and Facilities.

b. The Board shall hold a public hearing prior the revocation of a License.

c. Prior to a revocation hearing, the Licensee shall be reasonably informed of the basis upon which the revocation is being pursued.

d. The Licensee shall have the opportunity to dispute the allegations upon which the revocation is being pursued.

5. The granting or revocation of a License shall require a majority vote of the Board.

6. Conflict of Interest.

a. No Member may vote on a matter in which he has a financial, fiduciary, or other conflict of interest.

b. Should a member abstain from a vote due to a conflict of interest, the reasons shall be stated on the record.

c. Following an abstention, the granting or revocation of a License shall require a majority vote of the remaining Members.

d. An abstaining Member is not prohibited from engaging in discussion regarding the matter before the Board upon which he is abstaining.

7. The Board may request the assistance of City Officials and employees in the execution of its duties.

8. The Board may recommend to the City Council amendments to Ordinances relevant to the licensing or operation of Establishments and Facilities

9. The Board shall comply with the Open Meetings Act, PA 267 of 1976, as

amended.

TITLE XIII: GENERAL OFFENSES

Chapter

130. **OFFENSES AGAINST CITY REGULATIONS**

131. **OFFENSES AGAINST PUBLIC PEACE AND SAFETY**

132. **OFFENSES AGAINST PROPERTY**

CHAPTER 130: OFFENSES AGAINST CITY REGULATIONS

Section

General Provisions

130.01 Cruelty to animals
130.02 Burial of dead animals
130.03 Contributing to delinquency of minors
130.04 Cigarettes, cigars and tobacco; sale to, and use by, minors
130.05 Camping restricted
130.06 Gambling
130.07 Discharge of fireworks restricted

Alcoholic Beverages

130.20 Sale, delivery, or importation of alcoholic liquors
130.21 Sale to minors prohibited; identification cards
130.22 Solicitation of drinks

130.99 Penalty

GENERAL PROVISIONS

§ 130.01 CRUELTY TO ANIMALS.

An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(A) Fail to provide an animal with adequate care;

(B) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten;

(C) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse who feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(D) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a

secure space, rack, car, crate, or cage, in which, livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this division, for purposes of transportation of sled dogs, ***STAND*** means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(E) Abandon an animal or cause an animal to be abandoned, in any place, without making provision for the animals adequate care, unless premises are temporarily vacated for the protection of human life during a disaster. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting shall not be regarded as abandoned under this section when the owner or custodian has made reasonable effort to locate the animal.

(F) Willfully or negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or non-ambulatory to suffer unnecessary neglect, torture, or pain.
(M.C.L.A. § 750.50)
Cross-reference:
Abandonment of animals prohibited, see § 90.03

§ 130.02 BURIAL OF DEAD ANIMALS.

Any person or persons who shall put any dead animal or part of the carcass of any dead animal into any lake, river, creek, pond, road, street, alley, lane, lot, field, meadow or common, or in any place within one mile of the residence of any person or persons, except the same and every part thereof be buried at least four feet under ground, and the owner or owners thereof who shall knowingly permit the same to remain in any of the aforesaid places, to the injury of the health, or to the annoyance of the citizens of this state, or any of them, shall be guilty of a misdemeanor; and every 24 hours said owner may permit the same to remain after such conviction, shall be deemed an additional offense against the provisions of this section, a misdemeanor, punishable by a fine of not less than $50 nor more than $100, or by imprisonment of not less than 30 days nor more than 90 days.
(M.C.L.A. 750.57) (Ord. 9, passed 6-8-59)
Cross-reference:
Animals, see Ch. 90

§ 130.03 CONTRIBUTING TO DELINQUENCY OF MINORS.

Any person who shall by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come under the juvenile division of the probate court, as defined in Public Act 288 of 1939, Ch. 12a, § 2, as added by Public Act 54 of 1944 (First Extra Session), being M.C.L.A. §§ 712A.1 through 712A.28, and any amendments thereto, whether or not such child shall in fact be adjudicated a ward of the probate court, shall be guilty of a misdemeanor.
(M.C.L.A. 750.145) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 130.04 CIGARETTES, CIGARS AND TOBACCO; SALE TO, AND USE BY, MINORS.

(A) A person shall not sell, give, or furnish any cigarette, cigar, chewing tobacco, tobacco snuff, or tobacco in any other form to a person under 18 years of age.

(B) A person who sells tobacco products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of public health that includes the following statement:

> "The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products is subject to criminal penalties."

(C) If the sign required under division (B) is more than six feet from the point of sale, it shall be 5½ inches by 8½ inches, and the statement required under division (B) shall be printed in 36-point boldface type. If the

sign required under division (B) is six feet or less from the point of sale, it shall be two inches by four inches, and the statement required under division (B) shall be printed in 20-point boldface type. (M.C.L.A. § 722.641)

(D) A person under 18 years of age shall not possess or smoke cigarettes or cigars; or possess or chew, suck, or inhale chewing tobacco or tobacco snuff; or possess or use tobacco in any other form, on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement. (M.C.L.A. § 722.642)

(E) This section does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children or wards within the bounds of his or her own private premises. (M.C.L.A. § 722.643)

§ 130.05 CAMPING RESTRICTED.

No person shall camp overnight on any land in the city outside the city camping grounds. Camping shall mean and include the use of temporary buildings or tents or other structures as living quarters for persons.
(Ord. passed 9-18-89) Penalty, see § 130.99

§ 130.06 GAMBLING.

(A) No person shall engage in a game of chance prohibited by state statutes.

(B) No person shall have in his possession any evidence of illegal gambling in the nature of policy or pool tickets, slips or checks, or memoranda of any combination or bet, or any policy, wheel, dice, implement, apparatus or material of any form of illegal gambling or lottery.

(C) No person being the owner or person in control of the premises shall knowingly permit the use or occupancy thereof for gambling.
(Ord. passed 9-18-89) Penalty, see § 130.99

§ 130.07 DISCHARGE OF FIREWORKS RESTRICTED.

(A) It shall be a misdemeanor for any person to fire, discharge, display or possess any fireworks, except the type and under the conditions permitted by M.C.L.A. § 750.243a, as amended.

(B) Unless a penalty is otherwise provided by the laws of this state, every person convicted of a misdemeanor for the violation of any provision of division (A) of this section shall be punished by a fine of not more than $100 or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment.
(Ord. 26, passed 5-15-78)
Cross-reference:
Fireworks, see Ch. 96
Fireworks and explosives in parks, see § 93.19

ALCOHOLIC BEVERAGES

§ 130.20 SALE, DELIVERY, OR IMPORTATION OF ALCOHOLIC LIQUORS.

(A) Except as provided in this section and M.C.L.A. § 436.16a, a sale, delivery, or importation of alcoholic liquor, including alcoholic liquor for personal use, shall not be made in this state unless the sale, delivery, or importation is made by the Commission, the Commission's authorized agent or distributor, a person licensed by the Commission, or by prior written order of the Commission. All spirits for sale, use, storage, or distribution in this state, shall originally be purchased by and imported into the state by the Commission, or by prior written authority of the Commission. This section shall not apply in the case of an alcoholic liquor brought into this state personally by a person of legal age to purchase alcoholic liquor at the time of reentry into this state from without the territorial

limits of the United States for personal or household use in an amount permitted by federal law if the person has been outside the territorial limits of the United States for more than 48 hours and has not brought alcoholic liquor into the United States during the preceding 30 days.

(B) Notwithstanding the provision of division (A), a person who is of legal age to purchase alcoholic liquor may import from another state for that person's personal use not more than 288 ounces of alcoholic liquor which contains less than 21% alcohol by volume.
(M.C.L.A. § 436.3) Penalty, see § 130.99
Cross-reference:
Alcoholic beverages in parks, see § 93.19

§ 130.21 SALE TO MINORS PROHIBITED; IDENTIFICATION CARDS.

(A) No alcoholic liquor shall be sold to any person unless he shall have attained the age of 21 years. A suitable sign, describing the provisions of this section and warning violators thereof, shall be posted in a conspicuous place in each room where any alcoholic liquors are sold. Said signs shall be approved and furnished by the State Liquor Control Commission. In any criminal prosecution for the violation of this division (A), proof that the defendant licensee or his agent or employee demanded and was shown, before furnishing any alcoholic liquor to a minor, a motor vehicle operator's license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of majority and identity of such person, may be offered as evidence in a defense to such prosecutions.
(M.C.L.A. § 436.33)

(B) A person who furnishes fraudulent identification to a person less than 21 Years of age, or notwithstanding M.C.L.A. § 436.33b (1) a person less than 21 years of age who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor. The court shall order the Secretary of State to suspend, pursuant to § 319(5) of Act 300 of the Public Acts of 1949, being M.C.L.A. § 257.319, for a period of 90 days, operator or chauffeur license of a person who is convicted of furnishing or using fraudulent identification in violation of this division and the operator or chauffeur license of that person shall be surrendered to the court. The court shall immediately forward the surrendered license and an abstract of conviction to the Secretary of State. A suspension ordered under this division shall be in addition to any other suspension of the person's operator or chauffeur license. (M.C.L.A. § 436.33b (3))

(C) Any person who willfully gives or furnishes alcoholic beverage to a minor except upon authority of and pursuant to a prescription of a duly licensed physician or pursuant to established religious practice, is deemed guilty of a misdemeanor. (M.C.L.A. § 750.141a)
(Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 130.22 SOLICITATION OF DRINKS.

No person shall frequent or loiter in any tavern, inn or night club with the purpose of soliciting other persons to purchase drinks. No proprietor or operator of any such establishment shall allow the presence in such establishment of any person who violates the provisions of this section.
(Ord. passed 9-18-89) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this Title XIII for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding $500 or imprisonment for not more than 90 days, or both fine and imprisonment. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(B) A person who violates § 130.04(A) or (D) is guilty of a misdemeanor, punishable by a fine of not more than $50 for each offense.

(C) Every act prohibited by state law as a misdemeanor is hereby prohibited, and whoever violates any provision of §§ 130.06, 130.07, 130.22, 131.06, 131.07, 131.10, 131.11, or 131.12 shall upon conviction thereof, be punished by the same penalty provided by state law. (Ord. passed 9-18-89)

CHAPTER 131: OFFENSES AGAINST PUBLIC PEACE AND SAFETY

Section

General Provisions

131.01 Assault and battery; domestic assault
131.02 Disorderly persons
131.03 Disturbing meetings; breach of peace
131.04 Libel and slander
131.05 Loitering
131.06 Telephone harassment
131.07 Tumultuous conduct
131.08 False alarm of fire
131.09 Obstructing and disobeying firefighters in line of duty
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Weapons

131.25 Intentionally aiming firearm without malice
131.26 Reckless use, handling or discharge of firearm
131.27 Possession or use of firearm by person under the influence of liquor or drug
131.28 Pistols and weapons; forfeiture to state

GENERAL PROVISIONS

§ 131.01 ASSAULT AND BATTERY; DOMESTIC ASSAULT.

(A) a person who assaults or assaults and batters and individual, if no other punishment is prescribed by law, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500, or both.

(B) Except as provided for in divisions (C) and (D) below, an individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500 or both.

(C) An individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, in violation of division (B), and who has previously been convicted of assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has a child in common, or a resident or former resident of his or her household, in violation of this section, or M.C.L.A. §§ 750.81a, 750.82, 750.83, 750.84, or 750.86, may be punished by imprisonment for not more than one year or a fine of not more than $1,000, or both.

(D) An individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household,

in violation of division (B), and who has two or more previous convictions for assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has a child in common, or a resident or former resident of his or her household, in violation of this section, or M.C.L.A. §§ 750.81a, 750.82, 750.83, 750.84, or 750.86, is guilty of a felony punishable by imprisonment for not more than two years or a fine of not more than $2,500, or both.
(M.C.L.A. § 750.81) Penalty, see § 130.99

§ 131.02 DISORDERLY PERSONS.

(A) A person is a ***DISORDERLY PERSON*** if the person is any of the following:

(1) A person of sufficient ability who refuses or neglects to support his or her family;

(2) A common prostitute;

(3) A window peeper;

(4) A person who engages in an illegal occupation or business;

(5) A person who is intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance;

(6) A person who is engaged in indecent or obscene conduct in a public place;

(7) A person found loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged, or allowed;

(8) A person who knowingly loiters in or about a place where an illegal occupation or business is being conducted;

(9) A person who loiters in or about a police station, police headquarters building, county jail, hospital, court building, or other public building or place for the purpose of soliciting-employment of legal services or the services of sureties upon criminal recognizances; or

(10) A person who is found jostling or roughly crowding people unnecessarily in a public place.

(B) When a person, who has been convicted of refusing or neglecting to support his or her family under this section, is then charged with subsequent violations within a period of two years, that person shall be prosecuted as a second offender, or third and subsequent offender, as provided in M.C.L.A. § 750.168, if the family of that person is then receiving public relief or support.
(M.C.L.A. § 750.167) Penalty, see § 130.99

§ 131.03 DISTURBING MEETINGS; BREACH OF PEACE.

(A) *Disturbance of religious meetings.* Any person who, on the first day of the week, or at any other time, shall willfully interrupt or disturb any assembly of people met for the worship of God, within the place of such meeting or out of it, shall be guilty of a misdemeanor. (M.C.L.A. 750.169)

(B) *Disturbance of lawful meetings.* Any person who shall make or excite any disturbance or contention in any tavern, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public buildings, grounds or park, or at any election or other public meeting where citizens are peaceable and lawfully assembled, shall be guilty of a misdemeanor. (M.C.L.A. 750.170)
(Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 131.04 LIBEL AND SLANDER.

Any person who shall falsely and maliciously, by word, writing, sign, or otherwise, accuse, attribute, or impute to another the commission of any crime, felony or misdemeanor, or any infamous or degrading act, or impute or attribute to any female a want of chastity, shall be guilty of a misdemeanor.
(M.C.L.A. 750.370) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 131.05 LOITERING.

(A) A person commits a violation if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circum-stances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impractical, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would other-wise be warranted, by requesting the person to identify himself or herself and to explain his or her presence or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if it had been believed by the police officer at the time, would have dispelled the alarm. Any police officer may arrest any person suspected of being a loiterer or prowler without a warrant if it reasonably appears that the delay in arresting the suspect caused by obtaining a warrant would result in the suspect's escape.

(B) It shall be unlawful for any person, after first being warned by a police officer, or where a “no loitering” sign or signs have been posted, to loiter, stand, sit, or lie in or upon any public or quasi-public sidewalk, street, curb, cross-walk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon. It shall be unlawful for any person to block, obstruct, or prevent free access to the entrance to any building open to the public.

(C) For the purpose of this section, ***PUBLIC PLACE*** has the following definition unless the context clearly indicates or requires a different meaning: an area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.
Cross-reference:
Loitering in parks, see § 93.19

§ 131.06 TELEPHONE HARASSMENT.

No person shall telephone any person repeatedly or cause the same to be done for the primary purpose of harassing such other person or his family, whether or not conversation ensues, or use any threatening, vulgar, indecent, obscene, immoral or insulting language over any telephone.
(Ord. passed 9-18-89) Penalty, see § 130.99

§ 131.07 TUMULTUOUS CONDUCT.

No person shall disturb, tend to disturb, incite or aid in disturbing the public peace by loud, violent, tumultuous, offensive or obstreperous conduct, nor shall make or participate in making any improper noise or disturbance, riot or breach of the peace, nor shall engage in any illegal or improper act, and no person shall knowingly permit any such conduct upon any premises owned or possessed by him or under his control.
(Ord. passed 9-18-89) Penalty, see § 130.99

§ 131.08 FALSE ALARM OF FIRE.

Any person who shall knowingly and willfully commit any one or more of the following actions shall be guilty of a misdemeanor:

(A) Raise a false alarm of a fire at a gathering or in any public place;

(B) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire;

(C) Raise a false alarm of fire orally, by telephone or in person.
(M.C.L.A. 750.240) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 131.09 OBSTRUCTING AND DISOBEYING FIREFIGHTERS IN LINE OF DUTY.

Any person who while in the vicinity of any fire, willfully disobeys any reasonable order, rule or regulation of the officer commanding any Fire Department at such fire, shall be guilty of a misdemeanor.
(M.C.L.A. 750.241(2)) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 131.10 FALSE REPORT OF CRIME.

No person shall intentionally make or file with the Police Department of the city any false, misleading or unfounded statement or report concerning the commission or alleged commission of any crime occurring within the city.
(Ord. passed 9-18-89) Penalty, see § 130.99

§ 131.11 INTERFERENCE WITH POLICE DEPARTMENT.

(A) No person shall resist any police officer, any member of the Police Department, or any person duly empowered with police authority while in the discharge or apparent discharge of his duty, or in any way interfere with or hinder him in the discharge of his duty.

(B) It is a defense to prosecution under this section that the hindrance, obstruction, resistance, delay or interference alleged consisted of constitutionally protected speech only.
(Ord. passed 9-18-89) Penalty, see § 130.99

§ 131.12 ABANDONED REFRIGERATORS.

It shall be unlawful for any person to leave outside of any building or dwelling or in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or any other container of any kind which has an airtight door, or lock which may not be released for opening from the inside of the ice box, refrigerator or container, without first removing the snap-lock or door from the ice box, refrigerator or container.
(Ord. passed 9-18-89) Penalty, see § 130.99

§ 131.13 CURFEW.

(A) *Minors under 12 years of age.* No minors under the age of 12 years shall loiter, idle, congregate, traverse or remain in or upon any public street, highway, alley, park, or public property between the hours of 10:00 p.m. and 6:00 a.m. unless the minor is accompanied by a parent or guardian or an adult delegated by the parent or guardian to accompany the child.

(B) *Minors 13 to 15 years of age.* No minor under the age of 15 shall loiter, idle, congregate, traverse or remain in or upon any public street, highway, alley, park, or public property between the hours of 11:00 p.m. and 6:00 a.m., except where the minor is accompanied by a parent or guardian, or an adult over the age of 21 years delegated by the parent or guardian to accompany the minor child, or where the minor child is upon an errand or other legitimate business directed by a parent or guardian.

(C) *Minors 16 to 17 years of age.* No minor under the age of 17 shall loiter, idle, congregate, traverse or remain in or upon any public street, highway, alley, park or public property between the hours of 12:00 p.m. and 6:00 a.m., except where the minor is accompanied by a parent or guardian, or an adult over the age of 21 years delegated by the parent or guardian to accompany the minor child, or where the minor child is upon an errand or other legitimate business directed by a parent or guardian.

(D) *Aiding or abetting violation.* No person of the age of 17 years or over shall assist, aid, abet or encourage any minor under the age of 17 years to violate the provisions of divisions (A) through (C) of this section.

(E) *Parents, guardians and the like.*

(1) No parent, guardian or other person having the legal care and custody of any minor under the age of 17 years shall knowingly allow, permit or encourage any such minor while in his/her legal custody to loiter, idle, congregate, traverse or remain in or upon any public street, highway, alley, park or public property between the hours as specified in divisions (A) through (C) of this section.

(2) No parent, guardian or other person having legal care and custody of any minor under the age of 17 years shall fail to exercise a sufficient or reasonable control over the minor so as to prevent the minor from committing a violation of the state laws or city ordinances, including traffic violation, where the parent, guardian or other person had knowledge of the fact that the minor had previously committed two or more violations of the statutes of the state or the ordinances of the city, including traffic violations.

(F) *Juvenile arrest procedures.* Arrest and prosecution of minors under the age of 17 years for violation of this section shall be in accordance with Section 17 and other provisions of Chapter XIIA of Public Act 288 of 1939, being M.C.L.A. §§ 710.31 et seq., as amended.
(Ord. 71, passed 10-16-00) Penalty, see § 130.99

WEAPONS

§ 131.25 INTENTIONALLY AIMING FIREARM WITHOUT MALICE.

Any person who shall intentionally, without malice, point or aim any firearm at or toward any other person, shall be guilty of a misdemeanor. (M.C.L.A. 750.233) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 131.26 RECKLESS USE, HANDLING OR DISCHARGE OF FIREARM.

Any person who shall recklessly or heedlessly or willfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others shall be guilty of a misdemeanor.
(M.C.L.A. 752.a863) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 131.27 POSSESSION OR USE OF FIREARM BY PERSON UNDER THE INFLUENCE OF LIQUOR OR DRUG.

Any person under the influence of intoxicating liquor or any exhilarating or stupefying drug who shall carry, have in possession or under control, or use in any manner or discharge any firearm within this state, shall be guilty of a misdemeanor.
(M.C.L.A. 750.237) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 131.28 PISTOLS AND WEAPONS; FORFEITURE TO STATE.

All pistols, weapons or devices carried or possessed contrary to this subchapter are hereby declared forfeited to the state, and shall be turned over to the Commissioner of the Michigan State Police or his designated representative, for such disposition as the Commissioner may prescribe. (M.C.L.A. 750.239) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

CHAPTER 132: OFFENSES AGAINST PROPERTY

Section

132.01	Burning of personal property
132.02	Larceny
132.03	Maliciously destroying or injuring personal property
132.04	Maliciously injuring or destroying boundary markers, guideposts, light bulbs, and the like
132.05	Throwing stones or missiles at trains or other motor vehicles prohibited

Cross-reference:

Prohibited acts on park property, see § 93.15

§ 132.01 BURNING OF PERSONAL PROPERTY.

Any person who willfully and maliciously burns any personal property, other than that specified in M.C.L.A. §§ 750.51 through 750.73, owned by himself or another shall, if the value of the personal property burned or intended to be so burned be $50 or less, be guilty of a misdemeanor.
(M.C.L.A. 750.74) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 132.02 LARCENY.

Any person who shall commit the offense of larceny, by stealing of the property of another, any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate, or any book of accounts for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record, if the property stolen shall be of the value of $100 or less, such person shall be guilty of a misdemeanor. (M.C.L.A. 750.356) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 132.03 MALICIOUSLY DESTROYING OR INJURING PERSONAL PROPERTY.

Any person who shall willfully and maliciously destroy or injure the personal property of another, if the damage done shall be $100 or less, such person shall be guilty of a misdemeanor.
(M.C.L.A. 750.377a) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 132.04 MALICIOUSLY INJURING OR DESTROYING BOUNDARY MARKERS, GUIDEPOSTS, LIGHT BULBS, AND THE LIKE.

Any person who shall willfully or maliciously break down, injure, remove or destroy any monument erected for the purpose of designating the boundaries of this state or any municipality thereof, or any tract or lot of land, or any tree marked for that purpose, or shall break down, injure, remove or destroy any milestone, mileboard, guidepost or guide board, lawfully erected upon any highway, or other public way or railroad, or shall willfully or maliciously deface, or alter the inscription on any such stone, post or board, or shall willfully or maliciously mar or deface any building or signboard, or extinguish any lamp, or break, injure, destroy or remove any gas lamp, oil lamp, electric light globe or bulb, or any railing or lamppost, erected on any bridge, sidewalk, street, highway, court or passage, or shall willfully or maliciously injure, remove, deface or destroy any board or structure lawfully erected or used for the posting of bills, posters or other notices, or shall willfully or maliciously mutilate, deface or destroy any bill, poster or other printed or written notice lawfully posted on any board or structure used for that purpose, without the consent of the owner or occupant thereof, shall be guilty of a misdemeanor. (M.C.L.A. 750.383) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

§ 132.05 THROWING STONES OR MISSILES AT TRAINS OR OTHER MOTOR VEHICLES PROHIBITED.

Any person who shall throw any stone, brick or other missile at any passenger train, sleeping car, passenger coach, express car, mail car, baggage car, locomotive, caboose, freight train or at any streetcar, trolley car or motor vehicle, shall be guilty of a misdemeanor.
(M.C.L.A. 750.394) (Ord. 9, passed 6-8-59) Penalty, see § 130.99

TITLE XV: LAND USAGE

Chapter

150. DOWNTOWN DEVELOPMENT

151. FLOODPLAIN MANAGEMENT

152. PROPERTY MAINTENANCE CODE

153. LAND DIVISION CONTROL

154. CELL TOWER CONTROL REGULATIONS

155. REGULATIONS FOR MEDICAL MARIJUANA

APPENDIX: ZONING ORDINANCE

Cross-reference:
Wellhead protection, see Chapter 52

CHAPTER 150: DOWNTOWN DEVELOPMENT

Section

General Provisions

150.01 Approval and modification of Development and Tax Increment Financing Plan

Downtown Development Authority

150.10 Title
150.11 Definitions
150.12 Determination of necessity
150.13 Creation of Authority
150.14 City Planning Commission to serve as Authority
150.15 Description of Downtown District
150.16 Board of Trustees
150.17 Powers of Authority
150.18 Director; bond requirement
150.19 Fiscal year; adoption of budget

GENERAL PROVISIONS

§ 150.01 APPROVAL AND MODIFICATION OF DEVELOPMENT AND TAX INCREMENT FINANCING PLAN.

The City Council approves the Development and Tax Increment Finance Plan of the City Downtown

Development Authority with the following modifications:

(A) The Authority will share that portion of the captured assessed value of the district equal to 50% of the P.A. 255 commercial facilities exemption certificates for new construction identified as the 17 (C1) properties in Table 4, Page 2-10 of the financing plan as they expire and return to the ad valorem roll, by entering into agreements with the County Board of Commissioners, the school boards, and the city to do so.

(B) The document shall be entitled and referred to as the "White Cloud Downtown Development Authority Development and Tax Increment Financing Plan."

(C) Item 20, operation and administration on pages 1-29 and 1-33 of the Development Plan be revised to $4,500 annually ($135,000 total).

(D) Further clarification of the accounting of P.A. 255 properties for the purpose of determining base year value in § 2(b) of the financing plan.
(Ord. 42, passed 5-15-89)

DOWNTOWN DEVELOPMENT AUTHORITY

§ 150.20 DISSOLUTION OF DOWNTOWN DEVELOPMENT AUTHORITY

1. Pursuant to Section 230 of the Recodified Tax Increment Financing Act, Public Act 57 of 2018, MCL 125.4230 (the Act), an authority that has completed the purposes for which it was organized shall be dissolved by ordinance.
2. The City of White Cloud Downtown Development Authority (the Authority) was established by ordinance August 20, 1979 to perform duties pursuant to the White Cloud Downtown Development Authority and the Development and Tax Increment Financing Plan (the Plan), adopted May 15, 1989.
3. The Plan expired on December 31, 2019, thereby ending the purposes for which, the Authority was established.
4. Accordingly, pursuant to the Act, the Authority is hereby dissolved.
(Ord. 2020-03, passed 10-21-2020)

§ 150.21 PROPERTY AND ASSETS OF THE AUTHORITY

1. Pursuant to Section 230 of ACT, the property and assets of the Authority remaining after satisfaction of the obligations of the Authority, if any, belong to the City.
(Ord. 2020-03, passed 10-21-2020)

CHAPTER 151: FLOODPLAIN MANAGEMENT

Section

151.01	Definitions
151.02	Scope of chapter
151.03	Permit requirements
151.04	Application
151.05	Review of applications; responsibilities of reviewer
151.06	Flood Hazard Boundary Map adopted by reference
151.07	National Flood Insurance Program and related regulations adopted by reference

§ 151.01 DEFINITIONS.

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

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

DEVELOPMENT. Any man-made change to improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

FLOOD. 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.

FLOOD PLAIN or ***FLOOD PRONE AREA.*** Any land area susceptible to being inundated by water from any source (see ***FLOOD***).

FLOODPROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a ***HABITABLE FLOOR***.

MOBILE HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The term includes but it is not limited to, the definition of ***MOBILE HOME*** as set forth in regulations governing the Mobile Home Safety and Construction Standards Program (24 CFR 3282.7(a)).

PERSON. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

STRUCTURE. For flood plain management purposes, a walled and roofed building, including a gas or

liquid storage tank, that is principally above ground, as well as a mobile home.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE. A grant of relief by a community from the terms of a flood plain management regulation.
(Ord. 32, passed 1-18-82)

§ 151.02 SCOPE OF CHAPTER.

The measures set forth in this chapter shall be required within Zone A of the Flood Hazard Boundary Map issued by the Federal Insurance Administration for this community and as adopted by reference in § 151.06.
(Ord. 32, passed 1-18-82)

§ 151.03 PERMIT REQUIREMENTS.

(A) No person shall erect, construct, enlarge, alter, repair, improve, move or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person.

(B) No man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the designated responsible person for each change.

(C) No mobile home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the designated responsible person.
(Ord. 32, passed 1-18-82) Penalty, see § 10.99

§ 151.04 APPLICATION.

To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the designated responsible person before the issuance of a permit will be considered.
(Ord. 32, passed 1-18-82)

§ 151.05 REVIEW OF APPLICATIONS; RESPONSIBILITIES OF REVIEWER.

(A) *Review of applications.*

(1) The City Building Inspector, hereinafter referred to as “the responsible person,” is appointed as the person responsible for receiving applications and examining the plans and specifications for the proposed construction or development.

(2) After reviewing the application, the responsible person shall require any additional measures which are necessary to meet the minimum requirements of this document.

(B) *Review of proposed development.* The responsible person shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is

required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344.

(C) *Review of building sites.* The responsible person shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall:

(1) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;

(2) Be constructed with materials and utility equipment resistant to flood damage; and

(3) Be constructed by methods and practices that minimize flood damage.

(D) *Review of subdivision proposals.* The responsible person shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that:

(1) All such proposals are consistent with the need to minimize flood damage within the flood prone area;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards.

(E) *Flood prone areas.*

(1) The responsible person shall require within flood prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

(2) The responsible person shall require within flood prone areas new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and on-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(F) *Base flood elevation data.*

(1) The responsible person shall require that all subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is the lesser, include within such proposals base flood elevation data.

(2) The responsible person shall obtain, and reasonably utilize any base flood elevation data available from a federal, state or other sources, until such other data has been provided by the Administrator, as criteria for requiring the all new construction and substantial improvements of residential structures have the lowest flood (including basement) elevated to or above the base flood level and all new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated or floodproofed to or above the base flood level.

(G) *Flood insurance risk premium rates.* For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on a community's FHBM, the responsible person shall obtain, or require the applicant to furnish, the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, obtain, or require the applicant to furnish, if the structure has been floodproofed, the elevation (in relation to mean

sea level) to which the structure was floodproofed, and maintain a record of all such information.

(H) *Watercourses.*

(1) The responsible person shall notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Insurance Administration;

(2) The responsible person shall assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(I) *Mobile homes.* The responsible person shall require that all mobile homes to be placed within Zone A on the community's Flood Hazard Boundary Map shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

(1) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile home less than 50 feet long requiring one additional tie per side;

(2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;

(3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(4) Any additions to the mobile home be similarly anchored.
(Ord. 32, passed 1-18-82) Penalty, see § 10.99

§ 151.06 FLOOD HAZARD BOUNDARY MAP ADOPTED BY REFERENCE.

The Flood Hazard Boundary Map issued by the Federal Insurance Administration for this community, date April 11, 1975, with Panel Number H01-02 and any officially published revisions to this map, is adopted as the official map for the enforcement of this document. Zone A on this map delineates the area within which the requirements of this document will be enforced.
(Ord. 32, passed 1-18-82)

§ 151.07 NATIONAL FLOOD INSURANCE PROGRAM AND RELATED REGULATIONS ADOPTED BY REFERENCE.

The October 1, 1984 revised National Flood Insurance Program and Related Regulations, including new standards set forth in § 60.3(b) of the Regulations as established by the Federal Emergency Management Agency, are adopted by reference and made a part of this chapter as fully as if such materials were set out at length herein. The Flood Hazard Boundary Map (FHBM) with the initial identification date of April 11, 1975, shall be permanently marked as a Flood Insurance Rate Map (FIRM) for the city.
(Ord. passed 8-18-86)

CHAPTER 152
SCOPE AND ADMINISTRATION

CHAPTER 152: PROPERTY MAINTENANCE CODE

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SECTION 152.05 GENERAL PROVISIONS

A. TITLE.

These regulations shall be known as the *International Property Maintenance Code* of **City of White Cloud**, hereinafter referred to as "this code."

(Ord. 49, passed 2-17-92)

B. SCOPE.

The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of *owners*, an owner's authorized agent, *operator*s and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

(Ord. 49, passed 2-17-92)

C. INTENT.

This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

D. SEVERABILITY.

If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 152.06 APPLICABILITY.

A. GENERAL.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

B. MAINTENANCE.

Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, owner's authorized agent, *operator* or *occupant* shall cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* authorized agent shall be responsible for the maintenance of buildings, structures and *premises*.

C. APPLICATION OF OTHER CODES.

Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70.

D. EXISTING REMEDIES.

The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe and insanitary.

E. WORKMANSHIP.

Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's instructions.

F. HISTORIC BUILDINGS.

The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

G. REFERENCED CODES AND STANDARDS.

The codes and standards referenced in this code shall be those that are listed in Chapter 152 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Chapter 152.06- G-1 & G-2.
Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

1. CONFLICTS.

Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

2. PROVISIONS IN REFERENCES CODES & STANDARDS.

Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

H. REQUIREMENTS NOT COVERED BY CODE.

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

I. APPLICATION TO REFERENCES.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

J. OTHER LAWS.

The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

SECTION 152.07 ADMINISTRATION AND ENFORCEMENT DEPT. OF PROPERTY MAINTENANCE INSPECTION.

A. GENERAL.

This code shall be enforced by the Zoning Administrator or their designee. The Zoning Administrator shall be known as the *code official.*

B. DEPUTIES.

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

C. LIABILITY.

The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

D. LEGAL DEFENSE

Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

D. FEES.

The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be established by resolution of the City Council.

SECTION 152.08 DUTIES AND POWERS OF THE CODE OFFICIAL.

A. GENERAL.

The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

B. INSPECTIONS.

The *code official* shall make all of the required inspections or shall accept reports of inspection by *approved* agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *code official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

C. RIGHT OF ENTRY.

Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the structure or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such structure or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner*, owner's authorized agent or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

D. IDENTIFICATION.

The *code official* shall carry proper identification or City logo uniform when inspecting *structure*s or *premises* in the performance of duties under this code.

E. NOTICES & ORDERS.

The *code official* shall issue all necessary notices or orders to ensure compliance with this code

F. DEPARTMENT RECORDS.

The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 152.09 APPROVAL

A. MODIFICATIONS.

Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner'*s authorized agent, provided the *code official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

B. ALTERNATIVE MATERIALS, METHODS, AND EQUIPMENT.

The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not *approved*, the *code official* shall respond in writing, stating the reasons the alternative was not *approved*.

C. REQUIRED TESTING.

Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

D. TEST METHODS.

Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

E. TEST REPORTS.

Reports of tests shall be retained by the *code official* for the period required for retention of public records.

F. USED MATERIAL AND EQUIPMENT.

The use of used materials that meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and *approved* by the *code official*.

G. APPROVED MATERIALS & EQUIPMENT.

Materials, equipment, and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

H. RESEARCH REPORTS.

Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

SECTION 152.10 VIOLATIONS.

A. UNLAWFUL ACTS.

It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

B. NOTICE OF VIOLATION.

The *code official* shall serve a notice of violation or order in accordance with Section 152-11.

C. PROSECUTION OF VIOLATION.

Any person failing to comply with a notice of violation or order served in accordance with Section 152-11 shall be deemed guilty of a municipal civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

D. VIOLATIONS PENALTIES.

Any person who shall violate a provision of this code or fail to comply therewith or with any of the requirements thereof, within *7 business day timeframe* shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

E. ABATEMENT OF VIOLATION.

The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure, or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

SECTION 152.11 NOTICES AND ORDERS.

A. NOTICE TO PERSON RESPONSIBLE.

Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 152-B and 152-C to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 152-10-I.

B. FORM.

Such notice prescribed in Section 152-11-A shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 152-10-C.
7. The consequences of failing to pay the required fines/costs or contact the city department issuing the violation notice within the required time.
8. Include the address of the city offices and the telephone number of the department issuing the violation notice and days and hours that the city offices are open.

C. METHOD OF SERVICE.

Such notice shall be deemed to be properly served if a copy thereof is:

1. 1. Delivered personally.
2. 2. Sent by certified or first-class mail addressed to the last known address; or
3. 3 .If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

D. UNAUTHORIZED TAMPERING.

Signs, tags, or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

E. PENALTIES.

Penalties for noncompliance with orders and notices shall be as set forth in Section 152.10-D.

F. TRANSFER OF OWNERSHIP.

It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation. A violation of this section shall be deemed a municipal civil infraction.

SECTION 152.12 UNSAFE STRUCTURES AND EQUIPMENT.

A. GENERAL.

When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code.

B. UNSAFE STRUCTURES.

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

C. UNSAFE EQUIPMENT.

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property, or safety of the public or *occupants* of the *premises* or structure.

D. STRUCTURE UNFIT FOR HUMAN OCCUPANCY.

A structure is unfit for human *occupancy* whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

E. UNLAWFUL STRUCTURE.

An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

F. DANGEROUS STRUCTURE OR PREMISES.

For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to collapse partially or completely, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal, or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

G. CLOSING OF VACANT STRUCTURES.

If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed so as not to be an attractive nuisance. Upon failure of the *owner* or owner's authorized agent to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

H. AUTHORITY TO DISCONNECT SERVICE UTILITIES.

The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 152-06 G-1 & G-2 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* or owner's authorized agent and *occupant* of the building, structure, or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, owner's authorized agent or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

I. NOTICE.

Whenever the *code official* has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner*, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with section 152.11-C. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 152.11-B.

J. PLACARDING.

Upon failure of the *owner*, owner's authorized agent or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties

provided for occupying the *premises*, operating the equipment or removing the placard.

K. PLACARD REMOVAL.

The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

L. PROHIBITED OCCUPANCY.

Any occupied structure condemned and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner*, owner's authorized agent or person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

M. ABATEMENT METHODS.

The *owner*, owner's authorized agent, *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition, or other *approved* corrective action.

N. RECORD.

The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

O. FEES FOR PLACARDED STRUCTURES.

The owner of any structure placarded pursuant to Section 152.12-J is responsible for paying a monthly, non-refundable administrative fee while the placard remains on the structure. The administrative fee shall be established by resolution of the City Council in an amount sufficient to defray the cost incurred by the City to monitor the structure for the purpose of preventing public safety hazards. The owner or party in interest whose name appears on the City's real property tax assessment records shall be notified of the amount owed by first class mail at the address shown on the City's real property tax assessment records. After 30 days, any unpaid amount shall be reported to the City Assessor for placement on the next tax roll of the City and imposition of a lien against the property, as permitted by State law.

CHAPTER 152.13 EMERGENCY MEASURES.

A. IMMINENT DANGER.

When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This *Structure* Is Unsafe and Its *Occupancy* Has Been Prohibited by the *Code Official*." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

B. TEMPORARY SAFEGUARDS.

Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

C. CLOSING STREETS

When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

D. EMERGENCY REPAIRS.

For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

E. COSTS OF EMERGENCY REPAIRS.

Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs.

F. HEARING.

Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 152.23 DEMOLITION

A. GENERAL.

The *code official* shall order the *owner* or owner's authorized agent of any *premises* upon which is located any structure, which in the *code official's* or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *code official* shall order the *owner* or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

B. NOTICES AND ORDERS.

Notices and orders shall comply with Section 152.11.

C. FAILURE TO COMPLY.

If the *owner* of a *premises* or owner's authorized agent fails to comply with a demolition order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

D. SALVAGE MATERIALS.

When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

CHAPTER 152.24 MEANS OF APPEAL

A. APPLICATION FOR APPEAL.

Any person directly affected by a decision of the code official, or a notice or order issued under this code shall have the right to a hearing before the city's Construction Code Board of Appeals as established in City of White Cloud Building Code.

B. APPEAL TO CIRCUIT COURT.

Any person aggrieved by a decision of the Construction Code Board of Appeals under Section 152 may appeal said decision to the circuit court.

CHAPTER 152.25 STOP WORK ORDER

A. AUTHORITY

Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

B. ISSUANCE

A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

C. EMERGENCIES

Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

D. FAILURE TO COMPLY

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 be liable to a fine in an amount to be established by resolution of the City Council.

SECTION 152.26 DEFINITIONS- GENERAL

A. SCOPE.

Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have

the meanings shown in this chapter.

B. 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.

C. TERMS DEFINED IN OTHER CODES.

Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

D. 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.

E. PARTS.

Whenever the words "*dwelling unit*," "dwelling," "*premises*," "building," "*rooming house*," "*rooming unit*," "*housekeeping unit*" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

GENERAL DEFINITIONS

ABANDONED VEHICLE. A vehicle which has remained on private property for a period so as to appear to be abandoned and which remains on private property for a period of 48 hours.
ANCHORED. Secured in a manner that provides positive connection.
APPROVED. Acceptable to the *code official*.
BASEMENT. That portion of a building which is partly or completely below grade.
BATHROOM. A room containing plumbing fixtures including a bathtub or shower.
BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.
CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.
CONDEMN. To adjudge unfit for *occupancy*.
COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses

incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a *code official*, the governing body or board of appeals.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

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.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner*(s) of the property. The *easement* shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, hangers, or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. *Bathrooms*, *toilet rooms*, closets, halls, storage or utility spaces, and similar areas are not considered *habitable spaces*.

HISTORIC BUILDING. Any building or structure that is one or more of the following:

1. 1.Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. 2.Designated as historic under an applicable state or local law.
3. 3.Certified as a contributing resource within a National Register or state or locally designated historic district.

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking, and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or *premises* of insects, rodents, vermin, or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, or in a state of disrepair, or incapable of being moved under its own power. A historic motor vehicle, duly registered and certified as such as prescribed by the Michigan Vehicle Code, Public Act No. 300 of 1949 (MCL

257.1 et seq.), shall not be deemed an inoperable vehicle.

JUNK. Includes, but is not limited to, any solid item or material of any nature and/or any waste or discarded item or material of any nature comprised, in whole or in part, with or being metal, plastic, rubber, tires, glass, ceramic, composite, or combinations of the same. The definition of junk includes any item or material designed or intended for interior use but placed outside of a dwelling, including, but not limited to, appliances, televisions, furniture, shelving, bedding, exercise equipment, heaters, furnaces, bathroom fixtures, plumbing items and building materials. The definition of Junk includes any item or material designed or intended for exterior use which is inoperable and/or not in usable form, including, but not limited to, lawn care equipment, construction tools and equipment, farm or garden machinery, vehicles, boats, motorcycles, ATVs, snowmobiles, trailers, mobile homes or other similar types of equipment and building materials.

LABELED. Equipment, materials, or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-*labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit, rooming unit,* building, premise or structure by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or *structure*.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation,* and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or *premises* which is let or offered for *occupancy*.

OWNER. Any person, agent, *operator*, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership, or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

PREMISES. A lot, plot or parcel of land, *easement,* or *public way*, including any structures thereon.

PUBLIC WAY. Any street, alley, or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

RECREATIONAL VEHICLE. A motorized or nonmotorized vehicle that is not generally used as a primary means of transportation and is generally used for recreational purposes. The term

"recreational vehicle" includes, but is not limited to a motor home, motorcoach, trailer, camper, watercraft, snowmobile, offroad motorcycle, quad runner, dune buggy, offroad vehicle, personal aircraft, or plane.
ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.
ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.
RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.
SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.
STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited or failed to do an act which the defendant was legally required to do.
STRUCTURE. That which is built or constructed or a portion thereof.
TENANT. A person, corporation, partnership, or group, whether the legal *owner* of record, occupying a building or portion thereof as a unit.
TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.
ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.
VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.
WORKMANLIKE. Executed in a skilled manner, e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.
YARD. An open space on the same lot with a structure.

CHAPTER 152.27 GENERAL REQUIREMENTS

A. SCOPE

The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment, and *exterior property*.

B. RESPONSIBILITY

The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit, rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit, rooming unit, housekeeping unit* or *premises* which they occupy and control.

C. VACANT STRUCTURES AND LAND

Vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 152.28 EXTERIOR PROPERTY AREAS

A. SANITATION.

Exterior property and *premises* shall be maintained in a clean, safe, and sanitary condition. The *occupant* shall keep that part of the *exterior property* that such *occupant* occupies or controls in a clean and sanitary condition-free of garbage, rubbish, or junk.

B. GRADING AND DRAINAGE.

Premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.
Exception: *Approved* retention areas and reservoirs.

C. SIDEWALKS AND DRIVEWAYS.

Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.

D. WEEDS.

Premises and *exterior property* shall be maintained free from weeds or plant growth more than **12 inches**. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. *
Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 152.10-C and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing there. Any costs incurred by the City in the destruction or maintenance of weeds in violation of this ordinance may be placed on the next tax roll of the City and the City may impose a lien against the property, as permitted by State law.

E. RODENT HARBORAGE.

Structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where

rodents are found, they shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

F. EXHAUST VENTS.

Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another *tenant*.

G. ACCESSORY STRUCTURES.

Accessory structures, including *detached* garages, fences, and walls, shall be maintained structurally sound and in good repair.

H. MOTOR VEHICLES.

Except as provided for in other regulations, no inoperative, abandoned, or unlicensed motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.
Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes and subject to obtaining an operational permit from the fire code official pursuant to the International Fire Code.

Storage of recreational vehicles is limited to those recreational vehicles owned by the owner of record, renter, or legal occupant of property. Recreational vehicles shall be stored or parked within the confines of the rear yard with a minimum five-foot setback from rear or side lot lines. Recreational vehicles shall not comprise more than 30 percent of the rear yard area. Recreational vehicles shall not be connected to sanitary facilities or permanent water connections and shall not be occupied for a period to exceed 72 hours. The code enforcement officer may, upon written request, grant a one-time extension of up to 72 hours renewal for occupancy.

I. DEFACEMENT OF PROPERTY.

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

CHAPTER 152.29 SWIMMING POOLS, SPAS AND HOT TUBS

A. SWIMMING POOLS.

Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

B. ENCLOSURES.

Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

CHAPTER 152.30 EXTERIOR STRUCTURE

A. GENERAL

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety, or welfare.

B. UNSAFE CONDITIONS.

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength.
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or watertight.
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects.
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not

properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects.
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies, and all similar appurtenances attached thereto, including *guard*s and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks, and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1.Where substantiated otherwise by an *approved* method.
2.Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

C. PROTECTIVE TREATMENT.

Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and watertight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

D. PREMISES IDENTIFICATION.

Buildings shall have *approved* address numbers placed in a position to be plainly legible and

visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

E. STRUCTURAL MEMBERS.

Structural members shall be maintained free from *deterioration* and shall be capable of safely supporting the imposed dead and live loads.

F. FOUNDATION WALLS.

Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition to prevent the entry of rodents and other pests.

G. EXTERIOR WALLS.

Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

H. ROOFS AND DAMAGE.

The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

I. DECORATIVE FEATURES.

Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

J. OVERHANG EXTENSIONS.

Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

K. STAIRWAYS, DECKS, PORCHES AND BALCONIES.

Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall

be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

L. CHIMNEYS AND TOWERS.

Chimneys, cooling towers, smokestacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

M. HANDRAILS AND GUARDS.

Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

N. WINDOW, SKYLIGHT AND DOOR FRAMES.

Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

O. GLAZING.

Glazing materials shall be maintained free from cracks and holes.

P. OPENABLE WINDOWS.

Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

Q. INSECT SCREENS.

During the period from April 1 through October 31, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every sliding door shall have an operable screen door intact.
Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

R. DOORS.

Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 152.71-C.

S. BASEMENT HATCHWAYS.

Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

T. GUARDS FOR BASEMENT WINDOWS

Every *basement* window that is openable shall be supplied with screens to ensure protection against the entry of rodents.

U. BUILDING SECURITY.

Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupant*s and property within.

V. DOORS.

Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased, or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

W. WINDOWS.

Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased, or let shall be equipped with a window sash locking device.

X. BASEMENT HATCHWAYS.

Basement hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

Y. GATES.

Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

CHAPTER 152.31 INTERIOR STRUCTURE

A. GENERAL.

The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house, housekeeping units*, a hotel, a dormitory, two or more *dwelling unit*s or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

B. UNSAFE CONDITIONS.

The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects, or the required strength.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
3. Structures or components thereof that have reached their limit state.
4. Structural members are incapable of supporting nominal loads and loads effects.
5. Stairs, landings, balconies, and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

   Exceptions:

   1. Where substantiated otherwise by an *approved* method.
   2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

C. STRUCTURAL MEMBERS.

Structural members shall be maintained structurally sound and be capable of supporting the imposed loads.

D. INTERIOR SURFACES.

Interior surfaces, including windows and doors, shall be maintained in good, clean, and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

E. STAIRS AND WALKING SURFACES.

Every stair, ramp, landing, balcony, porch, deck, or other walking surface shall be maintained in sound condition and good repair.

F. HANDRAILS AND GUARDS.

Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

G. INTERIOR DOORS.

Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

CHAPTER 152.32 COMPONENT SERVICEABILITY

A. GENERAL.

The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

B. UNSAFE CONDITIONS.

Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
    - 1.1. Collapse of footing or foundation system.
    - 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion.
    - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil.
    - 1.4. Inadequate soil as determined by a geotechnical investigation.
    - 1.5. Where the allowable bearing capacity of the soil is in doubt; or
    - 1.6. Adverse effects to the footing, foundation, concrete, or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
    - 2.1. *Deterioration*.
    - 2.2. *Ultimate deformation*.
    - 2.3. Fractures.
    - 2.4. Fissures.

2.5. Spalling.
2.6. Exposed reinforcement; or
2.7. *Detached*, dislodged, or failing connections.

3. Aluminum that has been subjected to any of the following conditions:
   3.1. *Deterioration*.
   3.2. Corrosion.
   3.3. Elastic deformation.
   3.4. *Ultimate deformation*.
   3.5. Stress or strain cracks.
   3.6. Joint fatigue; or
   3.7. *Detached*, dislodged, or failing connections.
4. Masonry that has been subjected to any of the following conditions:
   4.1. *Deterioration*.
   4.2. *Ultimate deformation*.
   4.3. Fractures in masonry or mortar joints.
   4.4. Fissures in masonry or mortar joints.
   4.5. Spalling.
   4.6. Exposed reinforcement; or
   4.7. *Detached*, dislodged, or failing connections.
5. Steel that has been subjected to any of the following conditions:
   5.1. *Deterioration.*
   5.2. Elastic deformation.
   5.3. *Ultimate deformation.*
   5.4. Metal fatigue; or
   5.5. *Detached*, dislodged, or failing connections.
6. Wood that has been subjected to any of the following conditions:
   6.1. *Ultimate deformation.*
   6.2. *Deterioration*.
   6.3. Damage from insects, rodents, and other vermin.
   6.4. Fire damage beyond charring.
   6.5. Significant splits and checks.
   6.6. Horizontal shear cracks.
   6.7. Vertical shear cracks.
   6.8. Inadequate support.
   6.9. *Detached*, dislodged, or failing connections; or
   6.10. Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

CHAPTER 152.33 HANDRAILS AND GUARDRAILS

A. GENERAL.

Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.
Exception: *Guards* shall not be required where exempted by the adopted building code.

SECTION 152.34 RUBBISH AND GARBAGE

A. ACCUMULATION OF RUBBISH OR GARBAGE.

Exterior property and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage.

B. DISPOSAL OF RUBBISH.

Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

C. RUBBISH STORAGE FACILITIES.

The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

D. REFRIGERATORS.

Refrigerators and similar equipment not in operation shall not be discarded, abandoned, or stored on *premises* without first removing the doors.

E. DISPOSAL OF GARBAGE.

Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

F. GARBAGE FACILITIES.

The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit;* an *approved* incinerator unit in the structure available to the *occupants* in each *dwelling unit;* or an *approved* leakproof, covered, outside garbage container.

G. CONTAINERS.

The *operator* of every establishment producing garbage shall provide, and always cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

CHAPTER 152.40 PEST ELIMINATION

A. INFESTATION.

Structures shall be kept free from insect and rodent *infestation*. Structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

B. OWNER.

The *owner* of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

C. SINGLE OCCUPANT.

The *occupant* of a one-family dwelling or of a single-*tenant* nonresidential structure shall be responsible for pest elimination on the *premises*.

D. MULTIPLE OCCUPANCY

The *owner* of a structure containing two or more *dwelling unit*s, a multiple *occupancy*, a *rooming house* or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and *exterior property*. If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for pest elimination.

E. OCCUPANT.

The *occupant* of any structure shall be responsible for the continued rodent and pest-free condition of the structure.
Exception: Where the *infestations* are caused by defects in the structure, the *owner* shall be responsible for pest elimination.

CHAPTER 152.41 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

A. SCOPE.

The provisions of this chapter shall govern the minimum conditions and standards for light, *ventilation*, and space for occupying a structure.

B. RESPONSIBILITY.

The *owner* of the structure shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A person shall not occupy as *owner-occupant*, or permit another person to occupy, any *premises* that do not comply with the requirements of this chapter.

C. ALTERNATIVE DEVICES.

In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *International Building Code* shall be permitted.

SECTION 152.42 LIGHT

A. HABITABLE SPACES.

Every *habitable space* shall have not less than one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.
Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m^2). The exterior glazing area shall be based on the total floor area being served.

B. COMMON HALLS & STAIRWAYS.

Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be always lighted with not less than a 60-watt standard incandescent light bulb for each 200 square feet (19 m^2) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be always illuminated the building space served by the means of egress is occupied with not less than 1 footcandle (11 lux) at floors, landings and treads.

C. OTHER SPACES

All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe *occupancy* of the space and utilization of the appliances, equipment, and fixtures.

CHAPTER 152.43 VENTILATION

A. HABITABLE SPACES.

Every *habitable space* shall have not less than one openable window. The total openable area of the window in every room shall be equal to not less than 45 percent of the minimum glazed area required in Section 152.43.
Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m^2). The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

B. BATHROOMS AND TOILET ROOMS.

Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable spaces* as required by Section 152.43 except that a window shall not be required in such spaces equipped with a mechanical *ventilation* system. Air exhausted by a mechanical *ventilation* system from a *bathroom* or *toilet room* shall discharge to the outdoors and shall not be recirculated.

C. COOKING FACILITIES.

Unless *approved* through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the *rooming unit* or dormitory unit.
Exceptions:

1. Where specifically *approved* in writing by the *code official*.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

D. PROCESS VENTILATION

Where injurious, toxic, irritating, or noxious fumes, gases, dusts or mists are generated, a local exhaust *ventilation* system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

E. CLOTHES DRYER EXHAUST

Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and *labeled* condensing (ductless) clothes dryers.

CHAPTER 152.44 OCCUPANCY LIMITATIONS

A. PRIVACY.

Dwelling units, hotel units, *housekeeping units*, *rooming units* and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

B. MINIMUM ROOM WIDTHS.

A habitable room, other than a kitchen, shall be not less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

C. MINIMUM CEILING HEIGHTS.

Habitable spaces, hallways, corridors, laundry areas, *bathrooms*, *toilet rooms* and habitable *basement* areas shall have a minimum clear ceiling height of 7 feet (2134 mm).
Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting a maximum of 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study, or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

D. BEDROOM AND LIVING ROOMS REQUIREMENTS.

Every *bedroom* and living room shall comply with the requirements of Section 152.45 A-C.

E. ROOM AREA.

Every living room shall contain not less than 120 square feet (11.2 m^2) and every bedroom shall contain not less than 70 square feet (6.5 m^2) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m^2) of floor area for each occupant thereof.

F. ACCESS FROM BEDROOMS

Bedrooms shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.
Exception: Units that contain fewer than two *bedrooms*.

G. WATER CLOSET ACCESSIBILITY.

Every *bedroom* shall have access to not less than one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to not less than one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

H. PROHIBITED OCCUPANCY.

Kitchens and uninhabitable spaces shall not be used for sleeping purposes.

I. OTHER REQUIREMENTS.

Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 152.49; the heating facilities and electrical receptacle requirements of Chapter 152.64; and the smoke detector and emergency escape requirements of Chapter 152.70.

CHAPTER 152.45 MINIMUM AREA REQUIREMENTS

A. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 152.45.1

MINIMUM AREA REQUIREMENTS - Table 152.45.1

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room[a, b]	120	120	125
Dining room[a, b]	No requirement	80	100
Bedrooms	Shall comply with Section 152.45.1 (living room)		

For SI: 1 square foot = 0.0929 m^2.

B. SLEEPING AREA.

The minimum occupancy area required by Table 152.45.1 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. Sleeping areas shall comply with Section 152.44-H.

C. COMBINED SPACES.

Combined living room and dining room spaces shall comply with the requirements of table 152.45.1 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

D. EFFICIENCY UNIT.

Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. 1.A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m^2). A unit occupied by not more than two *occupants* shall have a minimum clear floor area of 220 square feet (20.4 m^2). A unit occupied by three *occupants* shall have a minimum clear floor area of 320 square feet (29.7 m^2). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. 2.The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
3. 3.The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. 4.The maximum number of *occupants* shall be three.

E. FOOD PREPARATION.

All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

CHAPTER 152.46 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

A. SCOPE.

The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

B. RESPONSIBILITY.

The *owner* of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any structure or *premises* that does not comply with the requirements of this chapter.

CHAPTER 152.47 REQUIRED FACILITIES

A. DWELLING UNITS.

Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located near the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

B. ROOMING HOUSES.

Not less than one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

C. HOTELS.

Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 *occupants*.

D. EMPLOYEES' FACILITIES.

Not less than one water closet, one lavatory and one drinking facility shall be available to employees.

E. DRINKING FACILITIES.

Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be in *toilet rooms* or *bathrooms*.

F. PUBLIC TOILET FACILITIES.

Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the *International Plumbing Code*. Except for periodic maintenance or cleaning, public access and use shall be always provided to the toilet facilities during *occupancy* of the *premises*.

CHAPTER 152.48 TOILET ROOMS

A. PRIVACY.

Toilet rooms and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

B. LOCATION.

Toilet rooms and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

C. LOCATION OF EMPLOYEE TOILET FACILITIES.

Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

D. FLOOR SURFACE.

In other than *dwelling units*, every *toilet room* floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

CHAPTER 152.49 PLUMBING SYSTEMS AND FIXTURES

A. GENERAL.

Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary, and functional condition.

B. FIXTURE CLEARANCES.

Plumbing fixtures shall have adequate clearances for usage and cleaning.

C. PLUMBING SYSTEM HAZARDS.

Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, *deterioration*, or damage or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

CHAPTER 152.60 WATER SYSTEM

A. GENERAL

Every sink, lavatory, bathtub, or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

B. CONTAMINATION

The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

C. SUPPLY

The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices, and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

D. WATER HEATING FACILITIES.

Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower, and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be in any *bathroom, toilet room, bedroom* or other occupied room normally kept closed, unless adequate combustion air is provided. An *approved* combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

CHAPTER 152.61 SANITARY DRAINAGE SYSTEM

A. GENERAL.

Plumbing fixtures shall be properly connected to either a public sewer system or to an *approved* private sewage disposal system

B. MAINTENANCE.

Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

C. GREASE INTERCEPTORS.

Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage

disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the code official.

CHAPTER 152.62 STORM DRAINAGE

A. GENERAL

Drainage of roofs and paved areas, *yards* and courts, and other open areas on the *premises* shall not be discharged in a manner that creates a public nuisance.

CHAPTER 152.63 MECHANICAL AND ELECTRICAL REQUIREMENTS

A. SCOPE

The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

B. RESPONSIBILITY.

The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that does not comply with the requirements of this chapter.

CHAPTER 152.64 HEATING FACILITIES

A. FACILITIES REQUIRED.

Heating facilities shall be provided in structures as required by this section.

B. RESIDENTIAL OCCUPANCIES.

Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms* based on the winter outdoor design temperature for the locality indicated in Appendix D of the *International Plumbing Code*. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, to provide required heating.
Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

C. HEAT SUPPLY.

Every *owner* and *operator* of any building who rents, leases, or lets one or more *dwelling*

units or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat at all times to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

Exceptions:

1. 1.When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.
2. 2.In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

D. OCCUPIABLE WORKSPACES.

Indoor occupiable workspaces shall be supplied with heat at all times to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1.Processing, storage and operation areas that require cooling or special temperature conditions.

2.Areas in which persons are primarily engaged in vigorous physical activities.

E. ROOM TEMPERATURE MEASUREMENT.

The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

SECTION 152.65 MECHANICAL EQUIPMENT

A. MECHANICAL APPLIANCES.

Mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition and shall be capable of performing the intended function.

B. REMOVAL OF COMBUSTION PRODUCTS.

Fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

Exception: Fuel-burning equipment and appliances that are *labeled* for unvented operation.

C. CLEARANCES.

Required clearances to combustible materials shall be maintained.

D. SAFETY CONTROLS.

Safety controls for fuel-burning equipment shall be maintained in effective operation.

E. COMBUSTION AIR.

A supply of air for complete combustion of the fuel and for *ventilation* of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

F. ENERGY CONSERVATION DEVICES.

Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

SECTION 152.66 ELECTRICAL FACILITIES

A. FACILITIES REQUIRED.

Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 152.67.

B. SERVICE.

The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. *Dwelling units* shall be served by a three-wire, 120/240-volt, single-phase electrical service having a minimum rating of 60 amperes.

C. ELECTRICAL SYSTEM HAZARDS.

Where it is found that the electrical system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, *deterioration* or damage, or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

D. ABATEMENT OF ELECTRICAL HAZARDS ASSOCIATED WITH WATER EXPOSURE.

The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

E. ELECTRICAL EQUIPMENT.

Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the *International Building Code*.
Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches rated a maximum of 600 volts or less.
2. Busway rated a maximum of 600 volts.
3. Panelboards rated a maximum of 600 volts.
4. Switchboards rated a maximum of 600 volts.
5. Fire pump controllers rated a maximum of 600 volts.
6. Manual and magnetic motor controllers.
7. Motor control centers.
8. Alternating current high-voltage circuit breakers.
9. Low-voltage power circuit breakers.
10. Protective relays, meters, and current transformers.
11. Low- and medium-voltage switchgear.
12. Liquid-filled transformers.
13. Cast-resin transformers.
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water.
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water.
16. Luminaires that are listed as submersible.
17. Motors.
18. Electronic control, signaling and communication equipment.

F. ABATEMENT OF ELECTRICAL HAZARDS ASSOCIATED WITH FIRE EXPORURE.

The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

G. ELECTRICAL EQUIPMENT.

Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the *International Building Code*.
Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

CHAPTER 152.67 ELECTRICAL EQUIPMENT

A. INSTALLATION.

Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner.

B. RECEPTACLES.

Every *habitable space* in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every *bathroom* shall contain not less than one receptacle. Any new *bathroom* receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

C. LUMINAIRES.

Every public hall, interior stairway, *toilet room*, kitchen, *bathroom*, laundry room, boiler room and furnace room shall contain not less than one electric luminaire. Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

D. WIRING.

Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

CHAPTER 152.68 ELEVATORS, ESCALATORS AND DUMBWAITERS

A. GENERAL.

Elevators, dumbwaiters, and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be always on display within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building *operator* or be posted in a publicly conspicuous location *approved* by the *code official*. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

B. ELEVATORS.

In buildings equipped with passenger elevators, not less than one elevator shall be always maintained in operation when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

CHAPTER 152.69 DUCT SYSTEM

A. GENERAL.

Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

CHAPTER 152.70 FIRE SAFETY REQUIREMENTS

A. SCOPE.

The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior *premises*, including fire safety facilities and equipment to be provided.

B. RESPONSIBILITY.

The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that do not comply with the requirements of this chapter.

CHAPTER 152.71 MEANS OF EGRESS

A. GENERAL.

A safe, continuous, and unobstructed path of travel shall be provided from any point in a building or structure to the *public way*. Means of egress shall comply with the *International Fire Code*.

B. AISLES.

The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

C. LOCKED DOORS.

Means of egress doors shall be readily openable from the side from which egress is to be made

without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

D. EMERGENCY ESCAPE OPENINGS.

Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates, or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

CHAPTER 152.72 FIRE RESISTANCE RATINGS

A. FIRE-RESISTANCE-RATED ASSEMBLIES.

The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

B. OPENING PROTECTIVES.

Required opening protectives shall be maintained in an operative condition. Fire and smoke stop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

CHAPTER 152.73 FIRE PROTECTION SYSTEMS

A. GENERAL.

Systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the *International Fire Code*.

B. AUTOMATIC SPRINKLER SYSTEMS.

Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

C. FIRE DEPARTMENT CONNECTION.

Where the fire department connection is not visible to approaching fire apparatus, the fire

department connection shall be indicated by an *approved* sign mounted on the street front or on the side of the building. Such sign shall have the letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches (51 mm) high or an arrow to indicate the location. Such signs shall be subject to the approval of the fire code official.

D. SINGLE AND MULTIPLE STATION SMOKE ALARMS.

Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Section 152.73 F-H.

E. WHERE REQUIRED.

Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Section 152.73 F through 152.73 H. Interconnection and power sources shall be in accordance with Section 152.73-J and 152.73-K.

Exceptions:

1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

F. GROUP R-1

Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. 1.In sleeping areas.
2. 2.In every room in the path of the *means of egress* from the sleeping area to the door leading from the *sleeping unit*.
3. 3.In each story within the *sleeping unit*, including basements. For *sleeping units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

G. GROUP R-2, R-3, R-4 AND I-1.

Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of *occupant load* at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.

3. In each story within a *dwelling unit*, including *basements* but not including crawl spaces and uninhabitable attics. In *dwellings* or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

H. INSTALLATION NEAR COOKING APPLIANCES.

Smoke alarms shall not be installed in the following locations unless this would prevent placement of a smoke alarm in a location required by Section 152.73-F & 152.73-G.

1. Ionization smoke alarms shall not be installed less than 20 feet (6096 m) horizontally from a permanently installed cooking appliance.
2. Ionization smoke alarms with an alarm-silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance.
3. Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.

I. INSTALLATION NEAR BATHROOMS.

Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 152.70.

J. INTERCONNECTION.

Where more than one smoke alarm is required to be installed within an individual *dwelling* or *sleeping unit*, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings that are not undergoing *alterations*, repairs, or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where *alterations* or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

K. POWER SOURCE.

Single-station smoke alarms shall receive their primary power from the building wiring provided

that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for over-current protection.

Exceptions:

1. 1.Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place.
2. 2.Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. 3.Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing *alterations* or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or *basement* available that could provide access for building wiring without the removal of interior finished.

Effective Date. This Ordinance shall become effective upon its publication in the manner required by law.

CHAPTER 153: LAND DIVISION CONTROL

Section

153.01 Title and Purpose
153.02 Definition and Applicability
153.03 Compliance Review
153.04 Land Division Requirements
153.05 Platting Procedure
153.06 Fees

§ 153.01 TITLE AND PURPOSE.

(A) This chapter shall be known as the City of White Cloud Land Division Control Ordinance.

(B) The purpose of this ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the City of White Cloud by establishing reasonable standards for prior review and approval of land divisions within the City of White Cloud.
(Ord. passed - -)

§ 153.02 DEFINITION AND APPLICABILITY.

(A) The definitions of the Land Division Act of 1967, as amended, are hereby included and made a

part of this Ordinance. Included, but not limited to: “Division” or “Divided” - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose
of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements or Sections 108 and 109 of the State Land Division Act.

(B) This ordinance shall apply to all unplatted lands within the City. A lot or parcel created by land division shall comply with all requirements of this ordinance and all other applicable ordinances and regulations. This provision applies whether the lot or parcel is created by the land division, exempt split, or whether it is the remaining parent parcel.
(Ord. passed - -)

§ 153.03 COMPLIANCE REVIEW.

No land within the City shall be divided without prior review and approval of the City Assessor for compliance with this ordinance and the Michigan Land Division Act, Public Act 591. Under the Michigan Land Division Act, Public Act 591, as amended, the City Assessor has forty-five (45) days after the filing of a complete application to approve or deny a proposed division. Apart from the right of appeal to the circuit court, the decision of the Assessor shall be final. No land divisions and/or lot splits or combinations shall be placed on the City tax roll until approval and compliance has been verified by the City Assessor and City Zoning Administrator.
(Ord. passed - -)

§ 153.04 LAND DIVISION REQUIREMENTS.

(A) A proposed land division map, to scale, shall be submitted for preliminary review by the Assessor, showing:

(1) Tract boundaries and total acreage in tract.

(2) Proposed property lines of each land division.

(3) Public utility easements to each land division.

(4) Street accessibility for each land division.

(5) Statement describing in detail the character and intended use of the land division.

(B) Submission shall be in compliance with any applicable article as required by the Zoning Ordinance. (i.e.: but not limited to)

(1) Compliance with the minimum lot width and lot area requirements for each land division.

(2) Street accessibility for each land division shall include:

(a) Public street frontage.

(b) Frontage on a private road which complies with the Private Road Ordinance.

(c) A private easement at least sixty-six (66) feet in width. All construction setbacks are to be observed from the street's edge.

(C) Any proposed land division shall not create more divisions than the number allowed by the Michigan Land Division Act, Public Act 591, and as amended.

(Ord. passed - -)

§ 153.05 PLATTING PROCEDURE.

(A) Preliminary plat applications shall be submitted to the City Zoning Administrator for review. Upon determination that the application is complete, the preliminary plat shall be forwarded to the City Planning Commission for review within 90 days.

(B) City Planning Commission shall review the plat and schedule a public hearing. After the public hearing, the Planning Commission shall recommend approval or denial. After this review, it is submitted to the City Council. The Council will then grant approval with (or without) conditions or, give written reasons for rejection. Preliminary plat approval is valid for one (1) year.

(C) A certified survey and legal description of each proposed land division is to be provided. This survey must be provided before the final approval by the Assessor but may be provided after the Assessor's preliminary review of the tentative plat map.

(D) Newaygo County Health Department must give approval for on-site water for each land division where City water is not currently available. Mandatory hookup is required (within one year) when water service is provided to the parcel.

(E) Newaygo County Health Department must give approval for on-site sewage disposal for each land division where public sewers are unavailable. Mandatory hookup is required (within one year) when sewer service is provided to the parcel.

(F) Public utility easements must be in place from the proposed land division to existing or future proposed services.

(G) Final Plats shall be prepared and submitted as provided for in the above Act.

(1) The subdivider shall submit proof of ownership of all lands included in the plat.

(2) The City Council may require such other information as it deems necessary to establish whether the proper parties have signed the plat.

(Ord. passed - -)

§ 153.06 FEES.

The City Council will set the fee schedule (and amend same) for this process whenever it deems necessary and as per the Land Division Act as amended. Such fees shall be reasonable.

(Ord. passed - -)

CHAPTER 154: CELL TOWER CONTROL REGULATIONS

154.01 Title and purpose
154.02 Applicability and definition
154.03 Reservation of rights
154.04 Permits
154.05 Applications
154.06 Annual permit fees
154.07 Liability and indemnification
154.08 Assignment, revocation and removal
154.09 Additional actions

§ 154.01 TITLE AND PURPOSE.

(A) This chapter shall be known as the City of White Cloud Cell Tower Control Ordinance. >From time to time, this chapter may be amended and all amendments hereafter shall be enforced as one ordinance.

(B) The purpose of this chapter is to regulate the access to and the ongoing use of cell towers for telecommunications pursuant to Section 4.5 of the City Charter and Public Act 216 of 1995, being M.C.L.A. §§ 484.2101 et seq., as amended, and other statutes as passed or amended.
(Ord. 70, passed 8-21-00)

§ 154.02 APPLICABILITY AND DEFINITION.

(A) This chapter shall apply to all lands within the city.

(B) A ***CELL TOWER*** is any construction whose purpose is the transmission of any type of telecommunication.
(Ord. 70, passed 8-21-00)

§ 154.03 RESERVATION OF RIGHTS.

The issuance of a permit or permits under this chapter and the access to and the use of public rights- of-way by a telecommunications provider shall not constitute a waiver of or otherwise adversely affect the following reserved rights:

(A) *Right to require franchise.* The city reserves the right to require telecommunication providers to obtain a franchise within a set period of time in order to do business within the city.

(B) *Rights regarding takings claim.* Certain providers contend that federal law grants them the right to physically occupy the right-of-way and other property of a municipality for the purpose of providing their service without compensating the municipality for the use of or value of the property so occupied, or the cost of acquiring and maintaining the property. The city disputes that claim. The city believes that if such a claim were sustained it would, among other things, constitute an unlawful taking by the United States in violation of the Fifth Amendment of the United States Constitution. The city desires to act on applications for permits, provided this can be done without waiver or loss of any rights of the city or the permittee.

(C) *Option to obtain consent agreement.* In order to promote certain activity, encourage competition and avoid litigation, the city will, at the request and sole option of an applicant or permittee, consider entering into a consent agreement for the use of public rights-of-way or on city property on terms and conditions mutually acceptable to the city and the provider. This agreement would include, among other things, a fee as determined by the Council, a stated date of expiration, disposition of equipment or buildings, and penalty clauses. A permittee may request a consent agreement at any time.

(Ord. 70, passed 8-21-00)

§ 154.04 PERMITS.

(A) *Permit required.* No person shall provide telecommunication services without a permit issued pursuant to this chapter or a consent agreement. This permit would stand alone if the site is wholly on city- owned property or on public rights-of-way. Privately- owned land for such services would also need a zoning permit. Any permittee who violates the conditions of the permit and/or fails to comply by withdrawing within the time frame of the permit has committed a misdemeanor and shall be prosecuted for this violation.

(C) *Consent agreement.* If a service provider negotiates a consent agreement with the city, and that agreement substantially satisfies the obligations of a permit holder, the consent agreement will be deemed to satisfy the requirements of a permit in this chapter. When the consent agreement is no longer in effect, the service provider shall be required to comply with all terms and conditions of this chapter as it may be amended from time to time. (Ord. 70, passed 8-21-00)

§ 154.05 APPLICATIONS.

(A) Application will be made on a form provided by the city.

(B) *Required information.* In addition to the normal information, such as names and addresses, the following will be required:

(1) Name and address of each person exercising control over the applicant, or if a company or corporation is in control over the applicant, the names and addresses of each of its officers, directors, and any stockholders beneficially holding more than 6% of the outstanding voting shares, general partners, and limited partners holding an equity interest of more than 6%.

(2) Copy of most recent financial statement.

(3) A description of the applicant's existing and proposed telecommunication systems and service in the city, the types of existing and proposed wires and other facilities in the city, and a statement whether the facilities are owned by the applicant, or if not, a copy of the agreement or legal instrument granting the applicant the right to use of or access to the facilities.

(4) A map setting forth the specific location of the facilities. The map shall identify the location of all above-ground and underground facilities.

(C) *Application fee.* The application will be accompanied by a non-refundable application fee in the amount established by resolution of the City Council and as amended from time to time.

(D) *Administrative completeness.* An application shall not be deemed to be filed for purposes of the 90-day application for permit review period in Section 251(3) of the Telecommunications Act unless and until the application is determined by the City Manager to be administratively complete. A determination of completeness shall be made within ten business days after the application is received by the city. If the determination is that it is not complete, the City Manager shall so advise the applicant in writing and shall identify the items which must be furnished in order to get a determination of completeness.

(E) *Additional information.* The City Manager may request an applicant to submit such additional information which he deems reasonably necessary or relevant to review the application. The applicant shall comply with all such requests in compliance with reasonable deadlines. If the applicant fails to provide the additional information within the time frame noted, the 90-day period for the city to act on the application shall be extended by an equal number of days the city waited for the data for review.

(F) *Misleading statements.* A person who provides information to the city in connection with any part

of this chapter which contains an untrue statement of a material fact or omits a material fact necessary to make the information not misleading shall be in violation of this chapter, and shall be subject to all remedies for such a violation, including, without limitation, denial of the requested action and permit revocation. Each day that a person fails to correct an untrue statement of material fact, or the omission of a material fact necessary to make the information not misleading, shall constitute a separate violation of this chapter.

(G) *Permit approval or denial.* Within 75 days after the City Manager determines that the application is administratively complete, subject to any adjustments for delays in providing additional information as provided in division (E) of this section, the City Council shall hold a public hearing on the application. Notice of the public hearing shall be published in a newspaper in general circulation not less than ten days before the public hearing. The applicant shall be mailed or faxed notice of the public hearing not less than ten days before the public hearing. The applicant and any other interested parties may appear in person, by agent, or by letter at the hearing to submit comments on the application. Following the public hearing, the City Council shall approve, approve with conditions, or deny the application. This public hearing and the action of the City Council will take place within 90 days after the City Manager determines that the application is administratively complete, pursuant to division (D) of this section, subject to any adjustments for delay in providing additional information as provided in division (E) of this section.

(H) *Conditions.* The City Council may impose conditions on a permit to protect the public health, safety and welfare. Without limitation, these conditions may include the posting of a bond by the service provider in an amount which shall not exceed the reasonable cost to ensure that the site is returned to its original condition during and after the provider's access and use. It is the intent of the city to maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

(1) No new tower shall be approved unless the applicant can document that the co-utilization of an existing tower, or utilization of an existing structure, is not available.

(2) The tower construction plans shall be prepared by a professional engineer qualified in structural engineering practices.

(3) The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.

(4) All towers and antennas must meet the standards of the Federal Aviation Administration and Federal Communications Commission.

(5) Towers shall be located and operated so that they do not interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.

(6) Minimum spacing between tower locations shall be one mile, in order to prevent a concentration of towers in one area.

(7) Towers shall not be artificially lighted unless required by the Federal Aviation Administration.

(8) There shall not be displayed on the tower advertising of any kind.

(9) The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.

(10) Towers shall only be allowed in Commercial and Industrial Zoning Districts by special use only.

(11) Towers for commercial wireless telecommunication services which are abandoned or unused shall be removed, along with any associated structures or equipment, within 12 months of the cessation of

operations, unless a time extension is granted by the Zoning Administrator. The posting of a bond shall be required to ensure compliance for removal.

(I) *Modifications.* The City Council may, in its discretion, grant a modification of a specific requirement if the applicant requests such modification in the application for a permit, and if the applicant demonstrates that there are exceptional or extra- ordinary circumstances which warrant a modification, and that the modification will not impair the intent and purpose of this chapter. The application shall describe the applicant's request for a modification and the reasons for the request with specificity. A modification granted by the City Council pursuant to this section shall expire upon the expiration of the permit, or earlier if so determined by the City Council. A modification shall modify only those requirements expressly set forth in the approval of the City Council, and shall not modify any other provisions of this chapter. If a request for a modification is denied by the City Council, the applicant shall comply with all requirements of this chapter without exception.
(Ord. 70, passed 8-21-00) Penalty, see § 10.99

§ 154.06 ANNUAL PERMIT FEES.

(A) *Establishment of annual fees; payment.*

(1) In addition to the non-refundable application fee set forth in this chapter and any other fees for other permits or authorizations required by the city code, the permittee shall pay an annual fee in an amount established by resolution of the City Council. The annual fee may be modified from time to time by resolution of the City Council. The annual fee shall be payable quarterly as follows:

First Quarter (Jan. 1 - Mar. 31) due: Apr.30
Second Quarter (Apr. 1 - Jun. 30) due: Jul. 31
Third Quarter (Jul. 1 - Sep. 30) due: Oct. 30
Fourth Quarter (Oct. 1 - Dec. 31) due: Jan. 31

(2) When a permit is issued during a calendar year, the annual fee shall be prorated for the balance of the calendar year. In the event that a quarterly payment is not paid when due, the permittee shall pay a late payment charge of the greater of $100 or interest at the rate of 1% over prime rate then charged by the local banks and computed monthly.

(B) *Option to pay annual fee based upon gross revenues.* A permittee, at its option, may elect to pay an annual fee of 1% of its annual gross revenues as set forth below, in lieu of and in full satisfaction of the annual fee established by the City Council. Permittees may elect this annual fee option for administrative convenience in computing the fee or for any other reason.

(1) This option is to be elected within 45 days of applying for a permit, or at least 60 days before the start of any calendar year after issuance of a permit.

(2) This option, once made, shall continue in effect until the end of the next three calendar years. Example: Decision by October 31 of 1999 would go into effect on January 1 of 2000 and would remain in effect throughout December 31, 2002. Decision by October 31 of 2002 would go into effect January 1, 2003.

(3) This option shall be made on a form provided by the city. Copies of the form shall be submitted with the application or by the deadline described above. Failure to meet the deadline(s) voids the request. This request will not be applied to any other calendar year. A new application will have to be made in a timely manner.
(Ord. 70, passed 8-21-00)

§ 154.07 LIABILITY AND INDEMNIFICATION.

(A) There will be no liability to the city and there shall be a “hold harmless” clause in all permits granted to any service provider.

(B) All service providers will provide a copy of their insurance coverage for liability to the city and to the public. Failure to maintain insurance is a cause for revocation of the permit. A cease and desist order to do any business within the city will be issued within 24 hours of discovery that insurance has not been renewed.
(Ord. 70, passed 8-21-00)

§ 154.08 ASSIGNMENT, REVOCATION AND REMOVAL.

(A) There shall be no assignment of any permit granted by the city.

(1) Any permit issued to a corporation must have the list of officers updated annually.

(2) A change of agent for a company must be submitted with a new application and the company must submit any new information as may be determined by the City Manager.

(B) Revocation of any permit is done by Council action. Causes for revocation include but are not limited to discovery at any time of false information on the original application; change of agent without re-application for permit; discovery that the public was jeopardized without full disclosure so preventive steps could be acknowledged and/or put into place; failure to maintain full liability insurance; any action or non- action in prohibition of this chapter. The City Council has final voice on this revocation. A new application for a permit will be accepted and shall be approved or denied according to the information provided therein.
(Ord. 70, passed 8-21-00)

§ 154.09 ADDITIONAL ACTIONS.

(A) Any item not directly addressed in this chapter concerning an application shall be reviewed by the City Manager and so outlined to the City Council for approval or denial by Council action.

(B) Any item not directly addressed in this chapter concerning the actions or non-actions of a permit holder shall be brought to the City Manager for review. The City Manager will then outline the difficulty to the City Council for grounds to become compliant and satisfaction of good intent or for failure to comply and revocation of permit.
(Ord. 70, passed 8-21-00)

APPENDIX: ZONING ORDINANCE

[Copies of the most current zoning ordinance, passed April 11, 1996, are on file for public inspection in the office of the City Clerk]

TABLE OF SPECIAL ORDINANCES

Table

I. **DOWNTOWN DEVELOPMENT AUTHORITY DISTRICT BOUNDARIES**

II. **FRANCHISES**

TABLE I: DOWNTOWN DEVELOPMENT AUTHORITY DISTRICT BOUNDARIES

Ord. No.	*Date Passed*	*Description*
28	8-20-79	Adopting the Downtown Development Authority District boundaries beginning at the intersection of James Street and North Street.
41	1-30-89	Amending the Downtown Development Authority District boundaries adopted in Ord. 28 to include an area beginning at the northeast corner of Lot 152 of the plat of the Village of Morgan.
68	6-19-00	Amending the Downtown Development Authority District boundaries, beginning with part of the south half of Section 32, Township14 North, Range12 West.
2020-03	10-21-2020	Repeal Chapter 150 Entitled “Downtown Development” Sections 150.01-150.19 and adding Sections 150.20-150.21 to dissolve the Downtown Development Authority

TABLE II: FRANCHISES

Ord. No.	*Date Passed*	*Description*
30	7-20-81	Granting to Consumers Power Company, the right, power and authority to construct, maintain and commercially use electric lines, and to do a local electric business for a period of 30 years.
43	11-20-89	Granting to O & A Electric Cooperative, the right, power and authority to construct, maintain and commercially use electric lines, and to do a local electric business for a period of 30 years.
59	1-17-94	Granting to Michigan Consolidated Gas Company, the right, power, and authority to lay, maintain and operate gas mains, pipes and services in the city, and to do a local gas business for a period of 30 years
97-10	11-3-97	Granting to Cable Vision, Inc. a cable television franchise agreement effective as of midnight November 11, 1997.
98-19	11-16-98	Granting consent to the sale, transfer and assignment of the non-exclusive cable franchise from Cable Vision, Inc. to Bresnan Communications Company Limited Partnership.

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